

1170-1

SUBSURFACE EXPLORATION

SAN JACINTO RIVER

I. H. - 10

SCOPE OF STUDY

The purpose of this study was to obtain and interpret information on soil conditions and specifically to determine the commercial suitability and recovery potential of any sand strata encountered at this site.

LOCATION OF PROJECT

This site is located adjacent to the San Jacinto River near I.H.-10 in East Harris County, Texas. The land is essentially a swamp land, practically all submerged, with depth of water cover influenced by the tides.

AUTHORIZATION

This investigation was authorized by Mr. Frank F. Spata with San Jacinto Associates on April 23, 1970.

SUBSURFACE EXPLORATION

Subsurface soil conditions were determined by eight (8) borings drilled at approximately the locations as shown on the Attached Boring Plan, page A-1 of the Appendix.

The borings were of four (4) inch nominal diameter. Soil samples were obtained in all borings.

Where sand strata were encountered, samples were obtained by use of the two (2) inch split-spoon sampler, or by water circulation return to simulate dredging operations.

SOUTHWESTERN LABORATORIES

LABORATORY TESTING

Classification and identification of each sample were made in the laboratory by our soils engineer.

Standard laboratory tests were performed on selected soil samples in order to evaluate the engineering properties of the sand strata encountered.

All test results are presented in the Summary of Laboratory Test Data Sheet, page A-2 of the Appendix. The terms and descriptive symbols used are defined on the Symbol Key Sheet, page A-11 of the Appendix.

SUBSURFACE CONDITIONS

The materials comprising the subsurface media as determined by the soil exploration program are shown on the Logs of Borings contained in the Appendix. A detailed review of these logs shows the stratigraphy to be gray clay and light gray sandy clay overlying a stratum of light gray sand. These strata are underlain by a stratum of brown to red clay.

The gray sand stratum is of importance because of its commercial recovery potential. This sand stratum ranges from fourteen (14) to thirty-three (33) feet in thickness with an average of about twenty-three (23) feet. The clay and sandy clay overburden ranges from seven (7) to fourteen (14) feet in depth with an average depth of ten (10) feet. The sand stratum has a greater thickness and less overburden in the vicinity of Borings No. B-1, B-2 and B-5. The overburden becomes deeper, ten to fourteen (14) feet, and the sand becomes thinner in the vicinity of Borings B-3, B-6 and B-4.

SOUTHWESTERN LABORATORIES

CONCLUSIONS

The stratum of gray sand has a potential commercial recovery value. The grain size distribution data indicates the sand is generally a well-graded fine sand. In some commercial applications the sand could be used directly, such as in pug-milled cement sand stabilized oyster shell base material. In others, such as concrete sand, the material would be an additive to a coarser material. This is a common practice for most concrete suppliers in the Houston area.

If the area of land is multiplied by the average depth of the sand stratum, [REDACTED]

Although some of the borings were a great distance apart, they do indicate some regularity in both the overburden and lower sand strata thicknesses.

LIMITATIONS

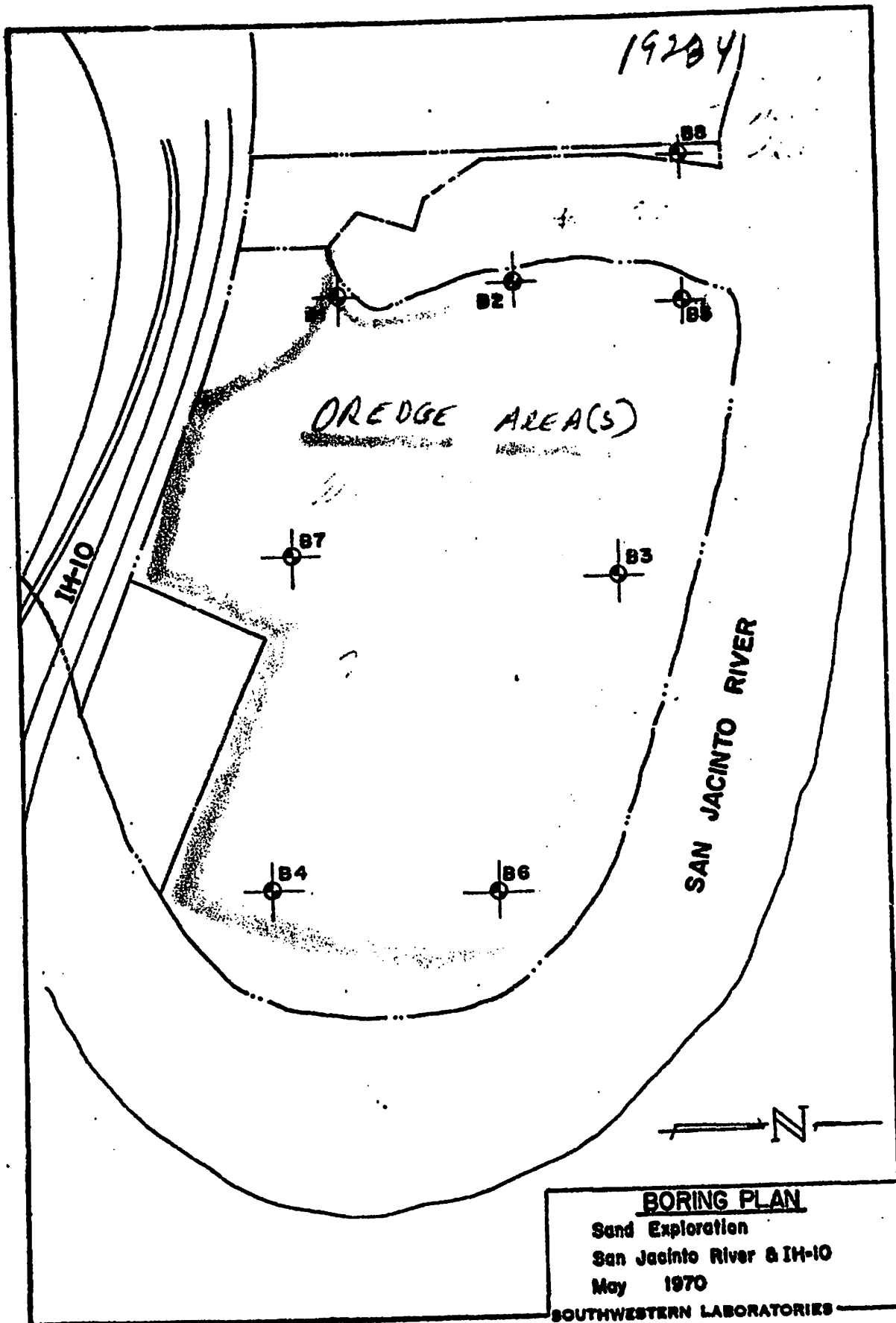
The foregoing recommendations are based on analysis which presume a uniform variation in soil properties at this site.

*most of Overburden has
dis appeared due to Cement and
sandstone. ~~the~~*

Lab No. 183459

CM

SOUTHWESTERN LABORATORIES



SUMMARY OF LABORATORY TEST DATA

Grain Size Distribution

% Retained U. S. Sieve No.		Boring Number			
		B-1	B-3	B-5	B-8
Depth	5-10	20-30			
0		0	0	0	0
0		0	0	0	2
1		0	0	0	13
6		4	4	8	30
51		34	70	48	93
91		81	95	86	97

A-2

SOUTHWESTERN LABORATORIES

LOG OF BORING No. B-1

PROJECT: San Jacinto River - I.H.-10

DATE: May 1970 TYPE: 4" Auger

LOCATION: See Boring Plan

DEPTH, FEET	SYMBOL	SAMPLES BLOWS PER FT.	WATER	SAMPLE	STANDARD PENETRATION
			DESCRIPTION		
0			SURFACE ELEVATION		
5			Gray clay with light gray sand layers		
10			Light gray fine sand		
15					
20					
25					
30					
35					
40			Blue gray clay		
			Bottom at 40 ft.		

LOG OF BORING No. B-2

PROJECT: San Jacinto River - I.H.-10

DATE: May 1970

TYPE: 4" Auger

LOCATION: See Boring Plan

▼ WATER

■ SAMPLE

☒ STANDARD
PENETRATION

DEPTH, FEET

SYMBOL

SAMPLES

BLOWS PER FT.

DESCRIPTION

SURFACE ELEVATION:

0

Gray clay

5

Light gray sand with gray clay layers

10

Light gray fine sand

15

20

25

30

35

Blue gray clay

40

Bottom at 40 ft.

LOG OF BORING No. B-3

PROJECT: San Jacinto River - I.R.-10

DATE: May 1970 TYPE: 4" Auger

LOCATION: See Boring Plan

DEPTH, FEET	SYMBOL	SAMPLES	BLOWS PER FT.	<input type="checkbox"/> WATER <input checked="" type="checkbox"/> SAMPLE <input checked="" type="checkbox"/> STANDARD PENETRATION	DESCRIPTION
0					SURFACE ELEVATION:
5					Gray clay
10					Light gray sand with gray clay layers
15					Light gray fine sand
20					
25					
30					Blue gray clay
35					
40					Bottom at 40 ft.


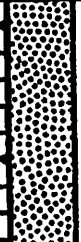
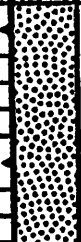

LOG OF BORING No. B-6

PROJECT: San Jacinto River - I.H.-10

DATE: May 1970

TYPE: 4" Auger

LOCATION: See Boring Plan

DEPTH, FEET	SYMBOL	SAMPLES BLOWS PER FT.	<input type="checkbox"/> WATER <input type="checkbox"/> SAMPLE <input checked="" type="checkbox"/> STANDARD PENETRATION	DESCRIPTION
0				SURFACE ELEVATION:
5				Gray clay with light gray sandy layers
10				Light gray sand with thin gray clay layers
15				
20				Light gray fine sand
25				
30				
35				Blue gray clay
40				Bottom at 40 ft.

LOG OF BORING No. B-5

PROJECT: San Jacinto River - I. H. 10

DATE: May 1970 TYPE: 4" Auger

LOCATION: See Boring Plan

DEPTH, FEET	SYMBOL	SAMPLES PER FT.	<input checked="" type="checkbox"/> WATER	<input type="checkbox"/> SAMPLE	<input checked="" type="checkbox"/> STANDARD PENETRATION
			DESCRIPTION		
0			SURFACE ELEVATION:		
5			Light gray fine sand		
10			Gray clay at nine (9) to ten (10) feet		
15			light gray fine sand		
20					
25					
30					
35			Blue gray clay		
40			Bottom at 40 ft.		

LOG OF BORING No. B-6

PROJECT: San Jacinto River - I.H.10

DATE: May 1970 TYPE: 4" Auger

LOCATION: See Boring Plan

DEPTH, FEET	SYMBOL	SAMPLES	BLOWS PER FT.	▼ WATER	■ SAMPLE	⊠ STANDARD PENETRATION
				DESCRIPTION		
0						SURFACE ELEVATION:
5						Light gray sand
10						Tan and light gray clay
15						Light gray fine sand
20						
25						
30						
35						Blue gray clay
40						Bottom at 40 ft.

LOG OF BORING No. B-7

PROJECT: San Jacinto River - I. H. LO

DATE: May 1970

TYPE: 4" Auger

LOCATION: See Boring Plan

DEPTH, FEET	SYMBOL	SAMPLES BLOWS PER FT.	WATER	SAMPLE	STANDARD PENETRATION
			DESCRIPTION		
0			SURFACE ELEVATION:		
5			Gray clay		
10			Light gray fine sand		
15					
20					
25					
30					
35			Blue gray clay		
40			Bottom at 40 ft.		

LOG OF BORING

No. B-6

PROJECT:

San Jacinto River - I. H. 10

DATE:

May 1970

TYPE:

4" Auger

LOCATION:

See Boring Plan

DEPTH, FEET	SYMBOL	SAMPLES BLOWS PER FT.	<input type="checkbox"/> WATER <input checked="" type="checkbox"/> SAMPLE <input checked="" type="checkbox"/> STANDARD PENETRATION
DESCRIPTION			
SURFACE ELEVATION:			
0			
5			
10			
15			
20			
25			
30			
35			
40			

Light gray coarse sand

Red clay

Bottom at 40 ft.

KEY TO SOIL CLASSIFICATION AND SYMBOLS

SOIL TYPES



GRAVEL
SAND
SILT
CLAY



ORGANIC
SANDY
SILTY
CLAYEY



SILTY SAND
CLAYEY SAND



SANDY SILT
CLAYEY SILT



SANDY CLAY
SILTY CLAY

CONSISTENCY OF COHESIVE SOILS

DESCRIPTIVE TERM

Very Soft
Soft
Plastic
Stiff
Very Stiff
Hard

UNCONFINED COMPRESSIVE STRENGTH TON/SQ. FOOT

Less than 0.25
0.25-0.50
0.50-1.00
1.00-2.00
2.00-4.00
More than 4.00

RELATIVE DENSITY OF COHESIONLESS SOILS

DESCRIPTIVE TERM

Loose
Firm
Dense
Very Dense

STD. PENETRATION RESISTANCE BLOWS/FOOT

0-10
10-30
30-50
More than 50

SOIL STRUCTURE

CALCAREOUS - Containing deposits of calcium carbonate ; generally nodular.

SLICKSIDED - Having inclined planes of weakness that are slick and glossy in appearance.

LAMINATED - Composed of thin layers of varying color and texture.

FISSURED - Containing shrinkage cracks frequently filled with fine sand or silt. Usually more or less vertical.

INTERBEDDED - Composed of alternate layers of different soil types.

TEST DATA AND SAMPLER SYMBOLS

30% FINER - Percent finer than no. 200 sieve.

30 B/F - Blows per foot, standard penetration test.



- Static water level.
- Hydrostatic water level.



SHELBY TUBE

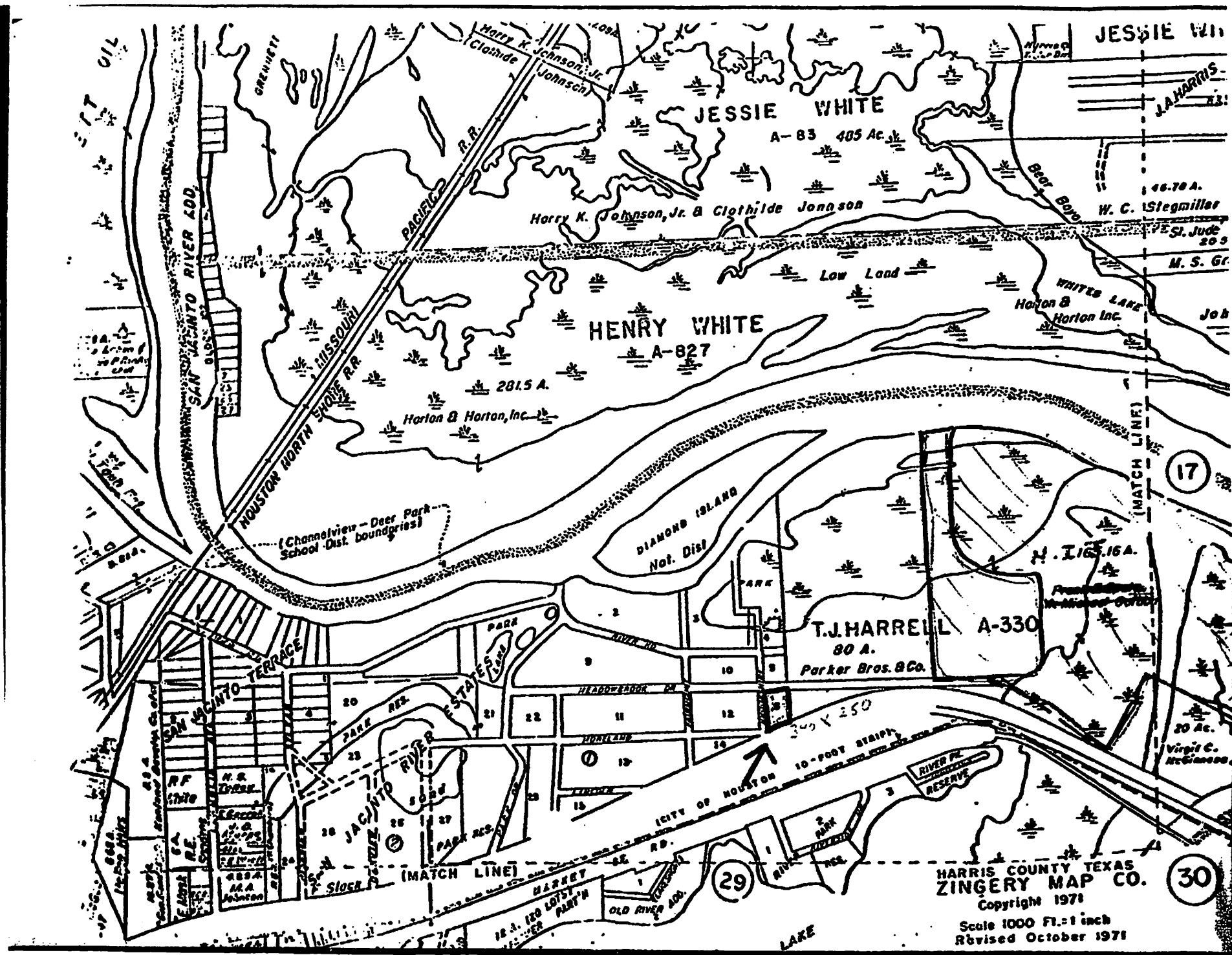


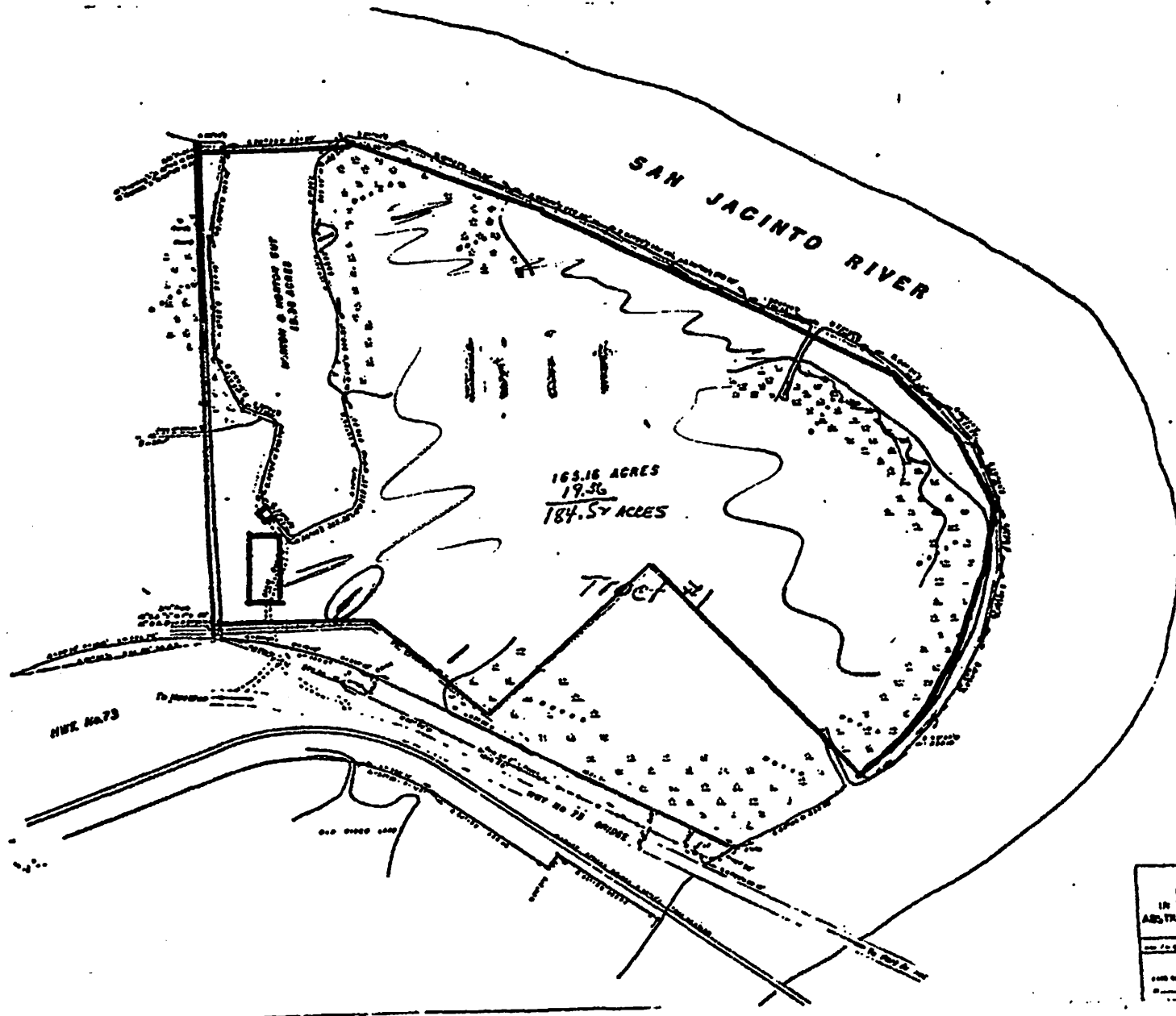
SPLIT SPOON



NO RECOVERY

SOUTHWESTERN LABORATORIES



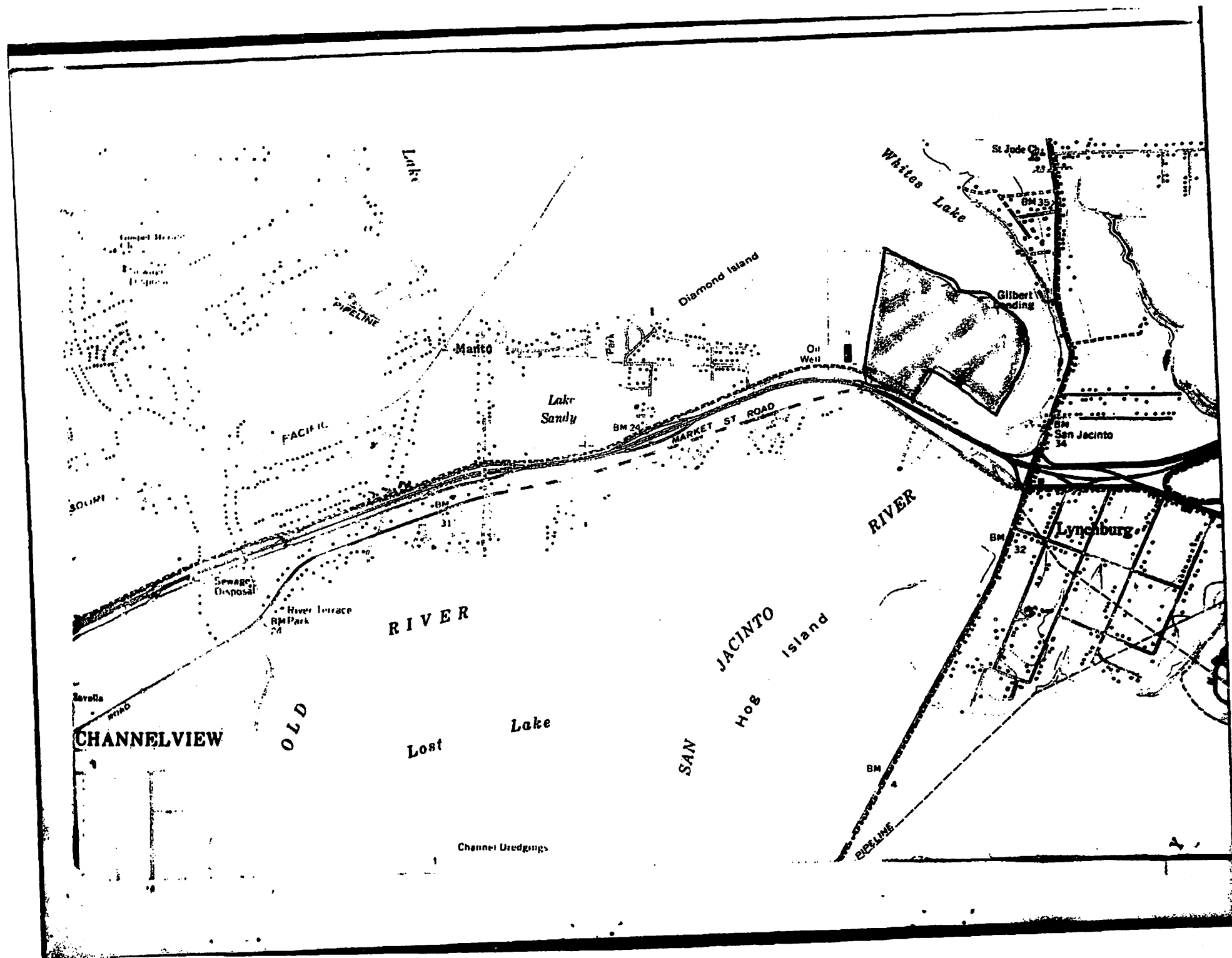


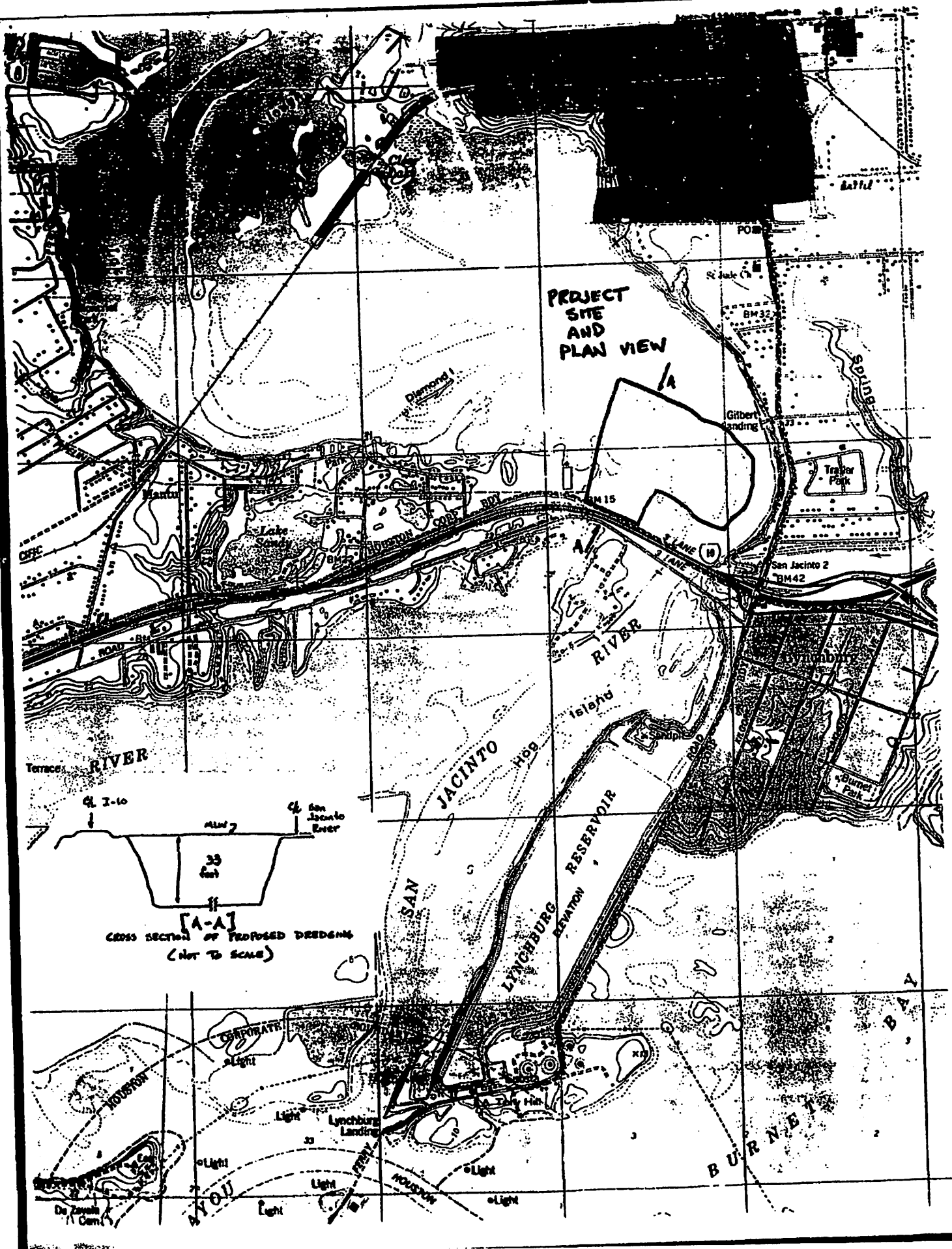
SURVEY OF
184.57 ACRES OF LAND
IN THE J. T. MARSHALL SURVEY,
ABSTRACT NO. 330, HARRIS COUNTY,
TEXAS.

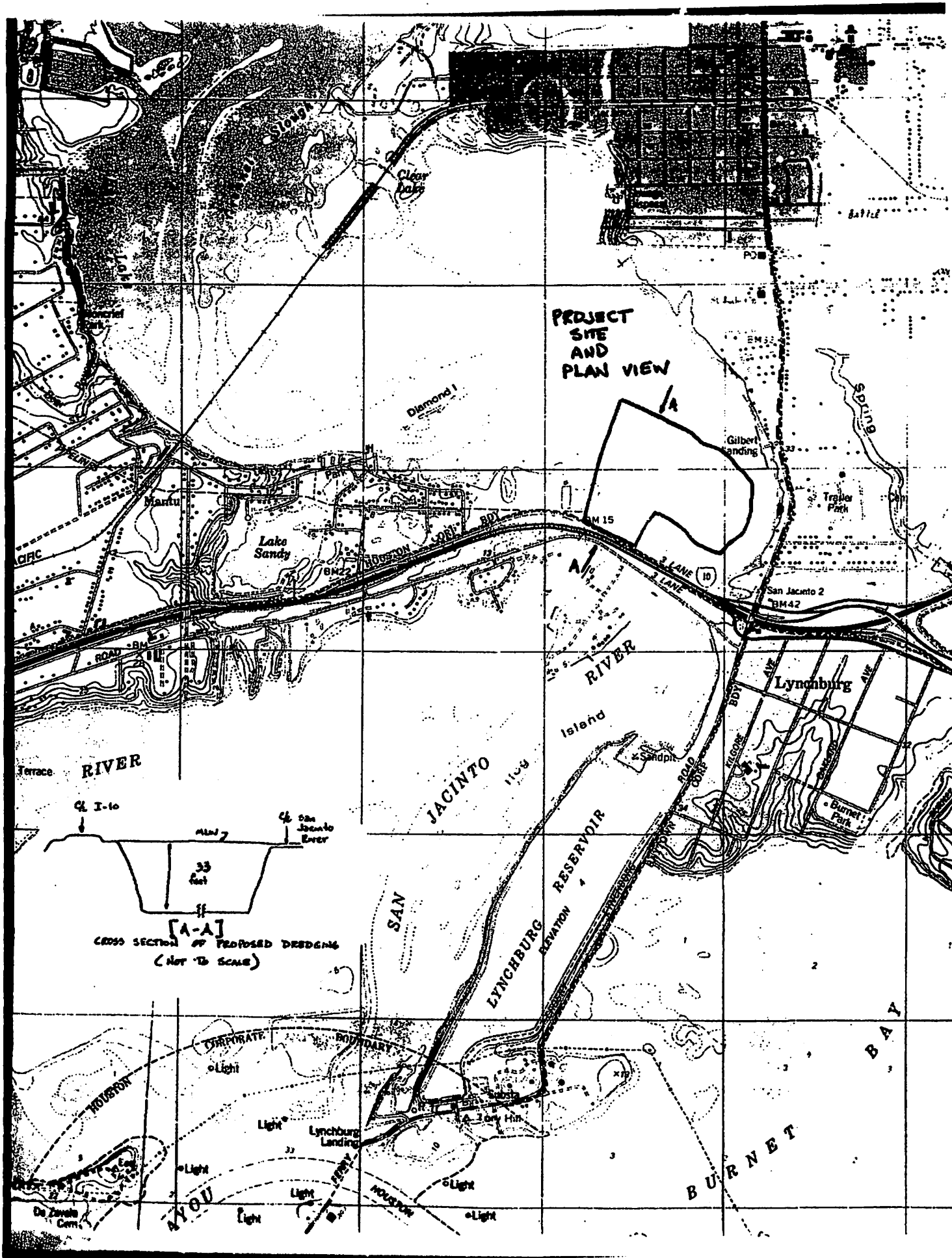
PREPARED BY
J. T. MARSHALL

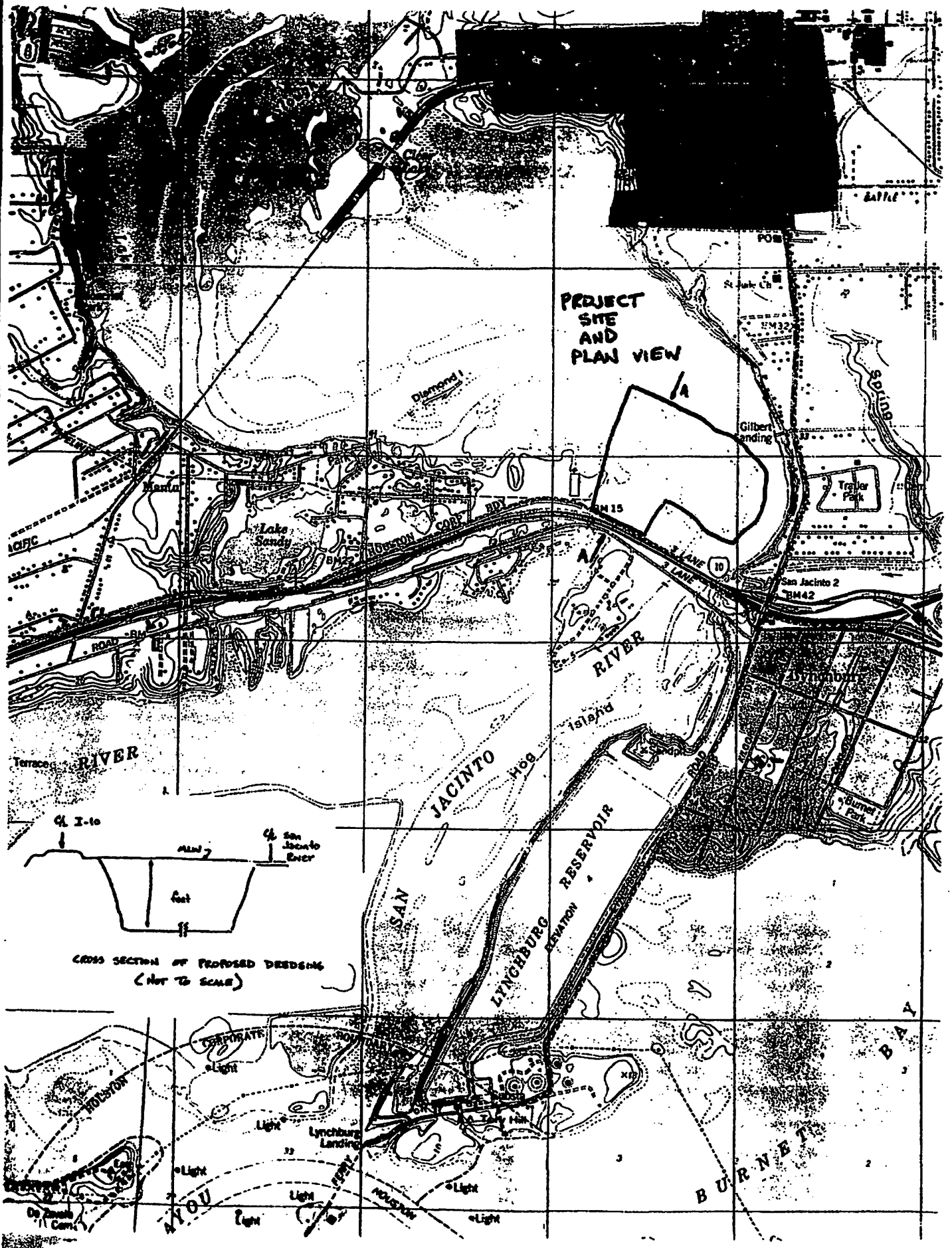
DATE
JANUARY 21, 1911

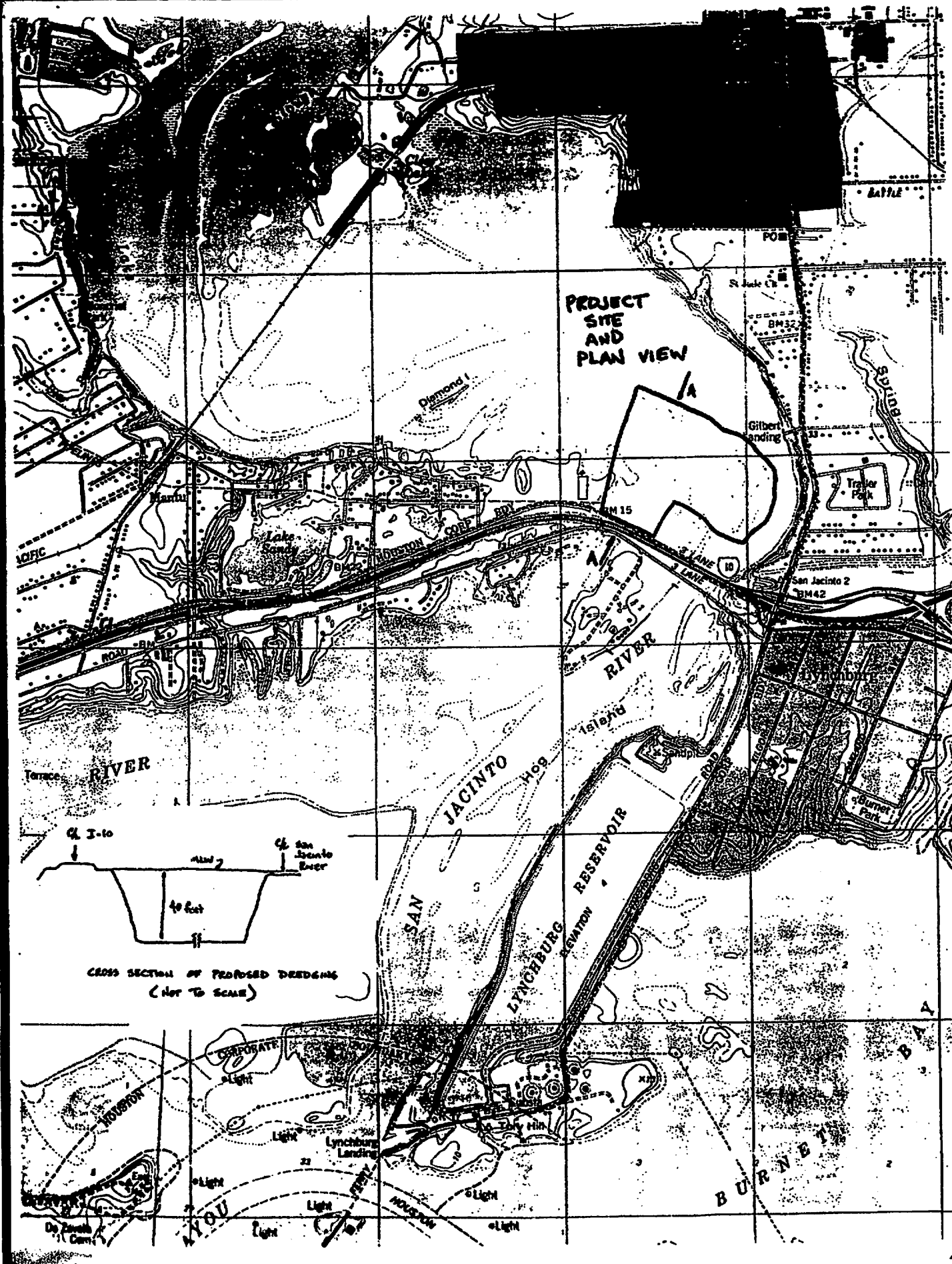
BY
J. T. MARSHALL











MAR 12 1991

Evaluation Section

SUBJECT: Permit Application - 19284

**Captain Jack Roberts
Houston International Terminal
1800 Interstate 10 East
Channelview, Texas 77530**

Dear Captain Roberts:

The time period for public comment on your proposal to excavate sand in the San Jacinto River has recently expired. In response, we received the enclosed correspondence. We are providing you with these letters to inform you of the comments made in regard to your project.

All comments on your project received by us will be considered in the process of making a decision on your application. Likewise, any written information provided by you will also be considered. Your response may be in the form of a rebuttal, a submittal of additional information, a revision of your plans, and/or a request for a decision on your proposal.

We are available to set up and attend a meeting between you and the objectors, if you so desire, or you may contact one or all of them at your own discretion. Please be advised, however, that the Corps of Engineers alone is responsible for making the decision on your application.

STOUTER/das/3944
CESWG-CO-RE
11 MAR 91

-2-

Please provide your response within 30 days from the date of this letter. If you need any information or assistance, please contact the Project Manager, Mr. Tom Stoutter, at the letterhead address or by telephone at 409/766-3944.

Sincerely,

Bruce H. Bennett
Chief, North Unit
Evaluation Section

BHB
BENNETT
CESWG-CO-RE

Enclosures

1. SCS ltr, 6 Mar 91
2. MOPS ltr, 1 Mar 91
3. KPA ltr, 28 Feb 91
4. GBP ltr, 1 Mar 91
5. PHA ltr, 1 Mar 91
6. USFWS ltr, 20 Feb 91
7. THC ltr, 17 Feb 91
8. Craig ltr, 9 Feb 91

15 MAR 1991



**TEXAS
PARKS AND WILDLIFE DEPARTMENT**
4200 Smith School Road • Austin, Texas 78744 • 512-389-4800

ANDREW SANSON
Executive Director

COMMISSIONERS

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San Antonio

March 8, 1991
(Telecopied 03-08-91)

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JOHN WILSON KELSEY
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Dallas

A.R. (TONY) SANCHEZ, JR.
Laredo

Colonel Brink P. Miller
District Engineer
Corps of Engineers
Post Office Box 1229
Galveston, Texas 77553-1229

Attn: CESWG-CO-RE

Re: Permit Application Number 19284
Houston International Terminals

Dear Colonel Miller:

The subject public notice, dated January 31, 1991, seeks Department of the Army authorization to dredge sand from waters of the United States. Sand will be hydraulically dredged from a 184-acre site adjacent to the San Jacinto River. Approximately 8.7 million cubic yards of sand will be removed by excavating the entire site down to -33 feet mean low tide. The sand will be sold commercially and the deepened site will be used as a barge fleeting area. The project site is immediately upstream of the Interstate 10 bridge across the San Jacinto River, in Channelview, Harris County, Texas.

The project site is a flooded bottomland that has been substantially altered by subsidence, erosion and sedimentation. What was once largely a freshwater river bottomland, is now shallow open water with a few islands which are remnants of the river's alluvial ridge. With subsidence and channelization also has come a shift in the area hydrology. What was once apparently freshwater forested and emergent palustrine wetlands is now estuarine. Recent evidence suggests salinities in the area reach 10 parts per thousand (ppt) regularly. In fact, the Galveston Bay Foundation and other resource groups have chosen the area as a site for wetland rehabilitation. In doing so, smooth cordgrass (*Spartina alterniflora*) has been extensively transplanted on

Miller, Page 2
Permit Application No. 19384

emergent islands in the area. This species is deemed the most appropriate due to observed salinity levels.

Since the area has been converted to shallow water, its estuarine functions contribute to the Galveston Bay system. These values include nursery and forage areas for estuarine-dependent fish and shellfish, important to both the sport and commercial fisheries of the State. In addition, the shallow flats provide foraging habitat for birds, including regular use by wintering ospreys and potential use by bald eagles.

Total use of the site as proposed presents several concerns. When dredged to -33 feet, values of shallow water estuary to juveniles are eliminated without a concomitant value increase to older life stages. Emergent and intertidal areas will also be lost, along with their habitat values. Concentrating barges into the area will likely increase the potential for pollution. The few remaining emergent areas will either be directly removed, or removed by increased erosion and sloughing into the pit. Finally, sand in the bedload, which is a state-owned resource, will end up on the pit, thus directly taking from the state a natural resource.

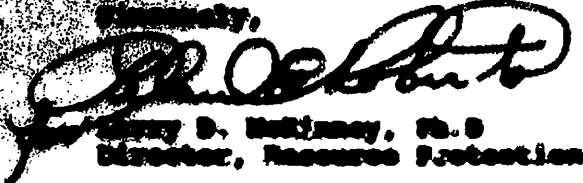
In order to protect state natural resources, including fish and wildlife, the permit should be amended to minimize and compensate for impacts. The size of the pit should be minimized and located to cause the least problems. A smaller sized pit should be located in the deepest portions of the site, and aligned to prevent entrapment of river-borne sand. All intertidal and emergent areas should be avoided, and a substantial buffer zone between the river and pit should be left in place. Finally, an area equal in size to the dredged pit should be enhanced to provide mostly emergent and some upland habitat. This could be accomplished by using material from the pit to raise elevations to those needed to support smooth cordgrass. If this is done, further transplanting of smooth cordgrass could be sponsored by the applicant, possibly in cooperation with the Galveston Bay Foundation.

The Department recommends adoption of the suggested measures to preserve habitat values in this system. Furthermore, ownership of the submerged lands in question should be clarified between the applicant, the State of Texas and the Port of Houston Authority, prior to issuance of any permit. If state ownership is verified, a permit must be obtained from this Department and payment made for material removed. Department staff in

Letter, Page 2
Transit Application No. 10304

Enclosed, Fred Leblanc or Andy Sipocz, 713/474-2811,
remain available to provide assistance with this matter.

Sincerely,



Larry D. McKinney, Ph.D.
Director, Resource Protection

LEH:FEL:fm

cc: Environmental Protection Agency, Dallas
(Mr. Norm Thomas)
U.S. Fish and Wildlife Service, Houston
National Marine Fisheries Service, Galveston
General Land Office, LaPorte
General Land Office, Austin (Mr. S. Covenport)
Texas Water Commission, Austin (Mr. Chas. Barnes)
Mr. Fred Leblanc, Texas Parks and Wildlife
Department, Sanbrook

12 MAR 1991

United States
Department of
Agriculture

Soil
Conservation
Service

101 South Main
Temple, TX
76501-7682

March 6, 1991

District Engineer, Galveston District
Corps of Engineers
P. O. Box 1229
Galveston, TX 77553-1229

Subject: CESWG-CO-RE, PERMIT APPLICATION-19284

APPLICANT:
Houston International Terminal
1800 Interstate 10 East
Chanelview, TX 77530

AGENT:
Captain Jack Roberts
2918 Green Tee Drive
Pearland, TX 77581

Dear Sir:

We would like to take this opportunity to comment on the proposed action to dredge 8.7 million cubic yards of sand in the San Jacinto River as proposed by this application. We are opposed to the project because the dredging and removal of sand from the river will significantly alter the hydrology of the river. This alteration will increase the shoreline erosion that is already occurring on the banks of the river. The effect on this shoreline is of great concern to us because the property owners have already suffered from loss of property due to erosion and subsidence.

We are also concerned with the proposed activity because we have been involved with the Galveston Bay Foundation and the Port of Houston on a demonstration project to stabilize the eroding shorelines in this area with vegetation. We have helped to establish smooth cordgrass on several of the islands in the middle of the San Jacinto River within the limits of the proposed project. The Galveston Bay Foundation has secured the proper permits and easements to carry out this activity. If this proposed dredging is carried out this will destroy the vegetation we have assisted in establishing.

These created wetlands would potentially have a future beneficial effect on the water quality and fisheries habitat of the lower San Jacinto Estuary. We feel that these impacts will be detrimental to the public interest when weighed against the utilization of the material for private concerns.



The Soil Conservation Service
is an agency of the
United States Department of Agriculture

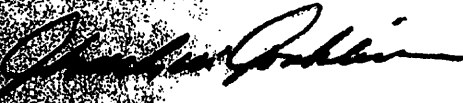


U.S. Government Printing Office: 1982-620-020/1-570

March 6, 1991

We appreciate the opportunity to comment on this activity.

Sincerely,



RICHARD M. SMITH
State Conservationist

11 MAR 1991

COMMISSION

ROBERT H. DEEMAN, CHAIRMAN
RAY STOKER, JR.
WAYNE S. DUDDELESTEN

**STATE DEPARTMENT OF HIGHWAYS
AND PUBLIC TRANSPORTATION**

P.O. BOX 1229
HOUSTON, TEXAS 77251-1229
(713) 869-4571

ENGINEER DIRECTOR
ARNOLD W. OLIVER, P.E.

March 6, 1991

CONTACT DME

Corps of Engineers Public Notice
Permit Application - 19284
Proposed Sand Pit North of IH 10
at San Jacinto River
Harris County
Control 508-1

Mr. Ron Stouffer
Department of the Army
Galveston District, Corps of Engineers
P. O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stouffer:

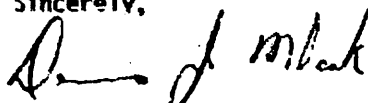
Reference is made to your letter dated January 31, 1991, in regard to the above subject sand dredging permit application.

We have reviewed the permit application and are concerned with the closeness of the sand pit operations to our bridge as well as our roadway facility. The north right-of-way line is only 40 feet from the edge of the bridge along a portion of this pit.

We recommend that no sand dredging operations be allowed closer than 100 yards from our bridge and roadway right-of-way to preclude erosion and insure soil stability. Should erosion problems associated with dredging develop and have adverse affects on our facility, the dredging operations shall be suspended in proximity of the problem area. Funding for restoration and repair of the problem area and the possible resultant damage to our facility will be the responsibility of the party applying for the permit.

If you have any further questions, please contact Bernie Parma of this office at 713/869-4571.

Sincerely,



Dennis J. Micak, P.E.
District Maintenance Engineer
District No. 12

BBP/DJM/rs

11 MAR 1991

TEXAS WATER COMMISSION



B. J. Wynne, III, Chairman
John E. Birdwell, Commissioner
CEN Johnson, Commissioner

John J. Vay, General Counsel
Michael E. Field, Chief Hearings Examiner
Brenda W. Foster, Chief Clerk

Allen Beinke, Executive Director

March 5, 1991

Mr. Ron Stouffer
Galveston District SWGCO-RP
Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553

RE: USCOE Permit No. 19284
County: Harris
Watercourse: Segment No. 1001

Dear Mr. Stouffer:

In response to the Joint Public Notice or copy of the application for the referenced permit dated January 31, 1991, this certification is issued pursuant to the provisions of Section 401 of the Clean Water Act. Contingent upon completion of the project as described (summarized in Attachment 1) and within the provisions included in Attachment 1, we certify that the project will not cause violation of established Texas Water Quality Standards. This certification is limited to those water quality considerations under the jurisdiction of this agency according to the various statutes which this agency administers.

Our review has been primarily of the information provided by the applicant or the Public Notice. No review of property rights, location of property lines, nor the distinction between public and private ownership has been made and this certification may not be used in any way with regard to questions of ownership.

We appreciate your cooperation in this matter, and if we can be of additional assistance, please contact Mr. Charles Eanes of the Wastewater Permits Section at 512/463-8245.

Sincerely,

A handwritten signature in cursive script, appearing to read "Allen Beinke", is written over the typed name.

Allen Beinke
Executive Director

Attachment No. 1

cc: Houston International Terminal
18001 Interstate 10 East
Channelview, Texas 77530

Captain Jack Roberts
2918 Green Tee Drive
Pearland, Texas 77581

TEXAS WATER COMMISSION
RE: USCOE Permit No. 19284
Houston International Terminal
Attachment 1, Dredge and Fill Certification
March 5, 1991

WORK DESCRIPTION: As described in public notice dated January 31, 1991.

SPECIAL PROVISIONS: If this application is a modification of an original permit or any modification thereof for which a special condition was cited by the Commission or a predecessor agency, such requirement remains valid if not previously satisfied.

GENERAL: This certification is contingent upon the completion of the work as described in the public notice or application for water quality certification, does not authorize dredging, excavation, or spoil disposal other than as detailed in public notice or application and requires the operation to be conducted in accordance with the below listed standard provisions. This certification is valid for any extension of time, minor revision or maintenance dredging subsequent to the original U.S. Army Corps of Engineers (COE) permit but expires concurrently with the final expiration of the applicable COE permit. Significant changes in the method of location of spoil disposal may require an amendment or the COE permit and/or reissuance of this water quality certification.

STANDARD PROVISIONS: These provisions apply to the permittee or any contractor employed by the permittee to accomplish work under the authority of a Corps permit.

1. Permittee will employ measures to control spills of fuels, lubricants, or any other materials used in construction to prevent them from entering the watercourse. All spills will be promptly reported to the Commission.
2. (a) Sanitary wastes must be retained for disposal in some legal manner.
(b) Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide adequate holding facilities for ultimate disposal at an approved treatment facility or provide treatment facilities which are approved and permitted by the Commission.
4. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.
5. Waste discharges shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulate. This includes dredge material, decant, and fill materials.
6. All areas utilized for spoil disposal must be approved by the COE and/or appropriate state resource agencies. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available.

TEXAS WATER COMMISSION

RE: USCOE Permit No. 19284

Houston International Terminal

Attachment 1, Dredge and Fill Certification

Page 2 of 3, March 5, 1991

7. Hydraulically dredged materials placed in a leveed disposal area(s) shall have a minimum of one hour residence time provided for the spoil's liquid phase. Materials pumped to the area shall be introduced at a point calculated to maximize settlement prior to overflow from a controlled spillway. Liquid overflowing the spillway shall be generally returned to the channel or area being dredged. Hydraulic dredge pipelines shall be inspected periodically during pumping for leaks and repaired before continuing operations.
8. If contaminated spoil, that was not anticipated or provided for in the permit application, is encountered during dredging, dredging operations will be immediately terminated and the Texas Water Commission, Wastewater Permits Section shall be contacted at (512) 463-8201 during business hours. A written report shall be submitted within 10 days. The report will include a description of the metals and toxic organics found in the spoil and the location of where the contaminated spoil was encountered. Dredging activities will not be resumed until authorized by the Commission.
9. Contaminated runoff from any storage area or spill shall not be allowed to enter a watercourse. Noncontaminated stormwater from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
10. Upon completion of earthwork operations all temporary fills shall be removed from the watercourse/wetland and areas disturbed during construction shall be seeded, riprapped, or given some other type of protection to minimize subsequent soil erosion. Any fill material will be clean and of such composition that it will not adversely effect the biological, chemical or physical properties of the receiving waters.
11. Removal of mature riparian vegetation not directly associated with project construction is prohibited. The natural vegetation shall be maintained, where possible and restored when disturbed or eroded.
12. Where the control of weeds, insects and other undesirable species is deemed necessary by the permittee, control methods which are nontoxic to aquatic life or human health shall be employed when the activity is located in or in close proximity to a waterway/wetland.
13. Disposal site(s) will be located outside of the vicinity of a public water supply intake, where possible, otherwise the operator of the water supply system shall be notified at least 72 hours prior to discharge.
14. Concentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the water, or otherwise interfere with reasonable use of the water in the state.

TEXAS WATER COMMISSION

RE: USCOE Permit No. 19284

Houston International Terminal

Attachment 1, Dredge and Fill Certification

Page 3 of 3, March 5, 1991

15. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms or putrescible sludge deposits or sediment layers which adversely affect benthic biota or any lawful uses.
16. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes and bays.
17. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition, foaming or frothing of a persistent nature is avoided and surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.
18. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, or to terrestrial or aquatic life.
19. Anyone discharging wastewater which would constitute a new source of pollution or an increased source of pollution from any industrial, public, or private project or development will be required to provide a level of wastewater treatment consistent with the provisions of the Texas Water Code and the Clean Water Act.
20. The water quality of wetlands will be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General Criteria and the Narrative and Numerical Criteria for toxic substances.

U A MAR 1991

PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICE: 1519 CAPITOL AVENUE
HOUSTON, TEXAS 77257-2942
TELEPHONE: (713) 236-3148
FAX: 916-681-4787

P.O. BOX 2942

HOUSTON, TEXAS 77257-2942



F. WILLIAM COLUMB
Director of Economic Development
(713) 236-2107

March 1, 1991

U. S. Army Corps of Engineers
District Engineer
P. O. Box 1229
Galveston, TX 77558-1229
Attn: Mr. Ron Stouffer

Subject: Permit Application 19284

Dear Mr. Stouffer:

The Port of Houston Authority hereby registers its objection to the above referenced Permit Application. The basis for concern is:

1. The area in question (or portions thereof) belong to the State of Texas or to the Port Authority by virtue of Senate Bill 222, Chapter 292, Acts of the 1927 Legislature.
2. The area in question contains sites of ongoing efforts by the Galveston Bay Foundation, Salt Water Angler's League of Texas, Trinity Bay, Inc., the U.S. Soil Conservation Service and Harris County Extension Service, in conjunction with the Port Authority, to re-establish brackish marsh habitat, beginning with the transplanting of smooth cordgrass (*Spartina Alterniflora*) in the area. The thousands of hours of volunteer labor and thousands of dollars invested by the Port Authority and others in this on-going effort to replace valuable habitat would be wasted. (Map attached). Similar improvements are planned in this area during 1991.
3. To allow this activity to occur would permanently remove both existing shallow water habitat and the opportunity to develop marsh habitat - both of which are disappearing from the Bay at a greater rate than they are being replaced.

U.S. Army Corps of Engineers
District Engineer

March 1, 1991
Page 2

We need not remind the USACE of our Nation's objective of "no net loss" of wetlands, and certainly the Corps is quite familiar with the 404(b)(1) guidelines developed jointly by the Corps and EPA. However, we would note the port industry as a whole, and the Port of Houston in particular, do support this national objective and the mitigation guidelines that have been promulgated towards that end.

In conclusion, the Port Authority would ask the application be denied. If not, the applicant should be required to address all of the potential environmental impacts associated with this proposal - including compliance with the 404(b)(1) guidelines. Whether or not a public hearing is held is a Corps decision. In any case, as owner of record of the submerged lands in that area, the Port Authority is opposed to any such permit being issued that would affect its property.

Very truly yours,


Director of Economic Development

FWC:hd

cc: Mr. R. F. Gorini

05 MAR 1991

**GALVESTON
BAY
FOUNDATION**

1 March 1991

District Engineer
Corps of Engineers
P. O. Box 1229
Galveston, TX 77553-1229
Attention: Mr. Ron Stouffer

Re: Permit Application No. 19284

Dear Mr. Stouffer:

In regard to the above referenced permit application by Houston International Terminal, we are deeply concerned about and oppose this proposed project to dredge sand from the vicinity of the San Jacinto River north of the I-10 bridge.

The project location includes lands which we have been given to understand belong to the Port of Houston Authority. In fact, we have a right-of-entry agreement with the Port to transplant smooth cordgrass to the inter-tidal zone of some islands within the noted project area. The purpose of this demonstration project is to reduce erosion and create beneficial brackish marsh habitat where a cypress swamp has been destroyed by subsidence. During the past two years, several planting expeditions have taken place and new marsh is developing. Our agreement, and grant from the Port to accomplish this project, is to continue the planting for at least four more years.

Even without the ownership questions and the immediate habitat degradation associated with the proposed project, we are concerned about the downstream effects on turbidity and shoreline erosion that would be caused by dredging such a large area to such a depth in that particular location. Furthermore, the barge fleeting operation that is so poorly maintained on the south side of I-10 is already an aesthetics-, safety-, and habitat-degrading facility. Additional such use of our valuable Galveston Bay waterways is difficult to justify.

Thank you for your consideration of this matter. If
the application is not summarily denied, we must insist on a
public hearing, at a minimum, at a nearby location and
convenient evening time.

Very truly yours,

Linda R. Shead

Linda R. Shead
Executive Director

DEPARTMENT OF THE ARMY PERMIT

Permittee Houston International Terminal

Permit No. 19284

Issuing Office Galveston District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To dredge sand for commercial sale and to provide a barge berthing area, and to create a fenced smooth cordgrass marsh area for mitigation; in accordance with the attached plans in six sheets, sheet one of which is entitled "HOUSTON INTERNATIONAL TERMINALS."

Project Location: San Jacinto River, along the south bank, north of the Interstate 10 bridge in Channelview, Harris County, Texas.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 1995. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

☒ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).

☐ Section 108 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1418).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

a. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(PERMITTEE)

HOUSTON INTERNATIONAL TERMINAL

11 May 1992
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


(DISTRICT ENGINEER)

BRUCE H. BENNETT, Acting Chief,
North Evaluation Section
FOR COLONEL BRINK P. MILLER

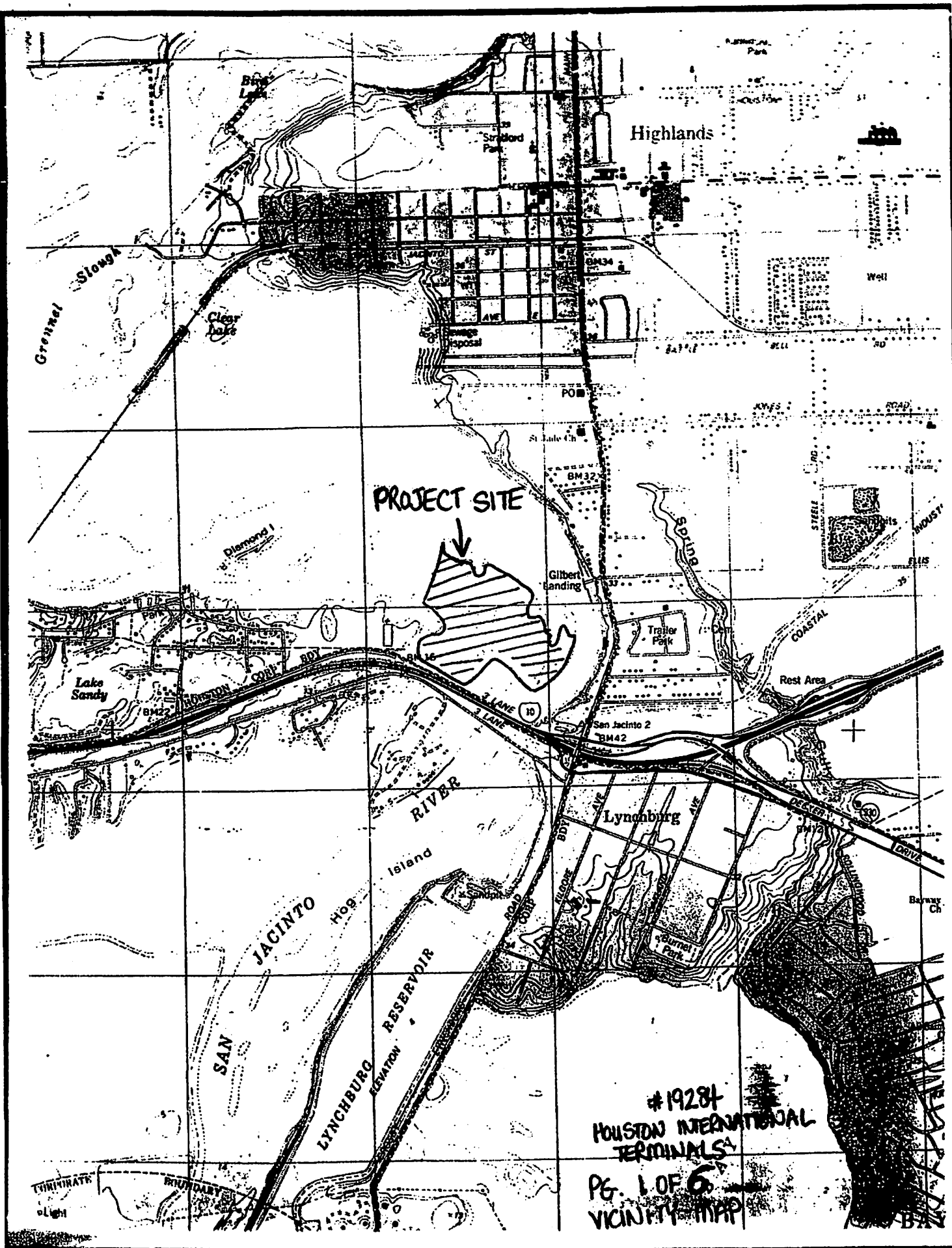
11 MAY 1992

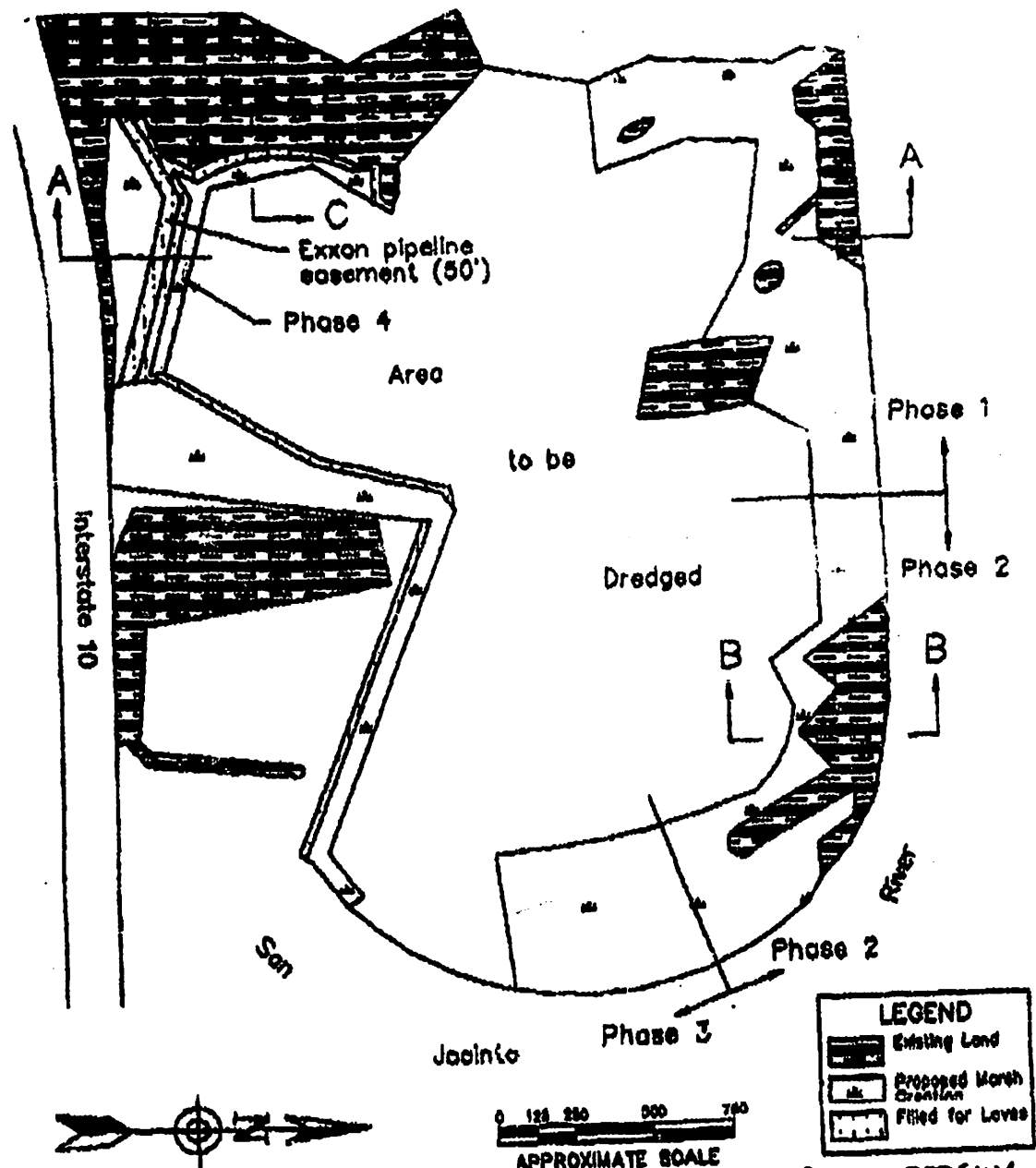
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)

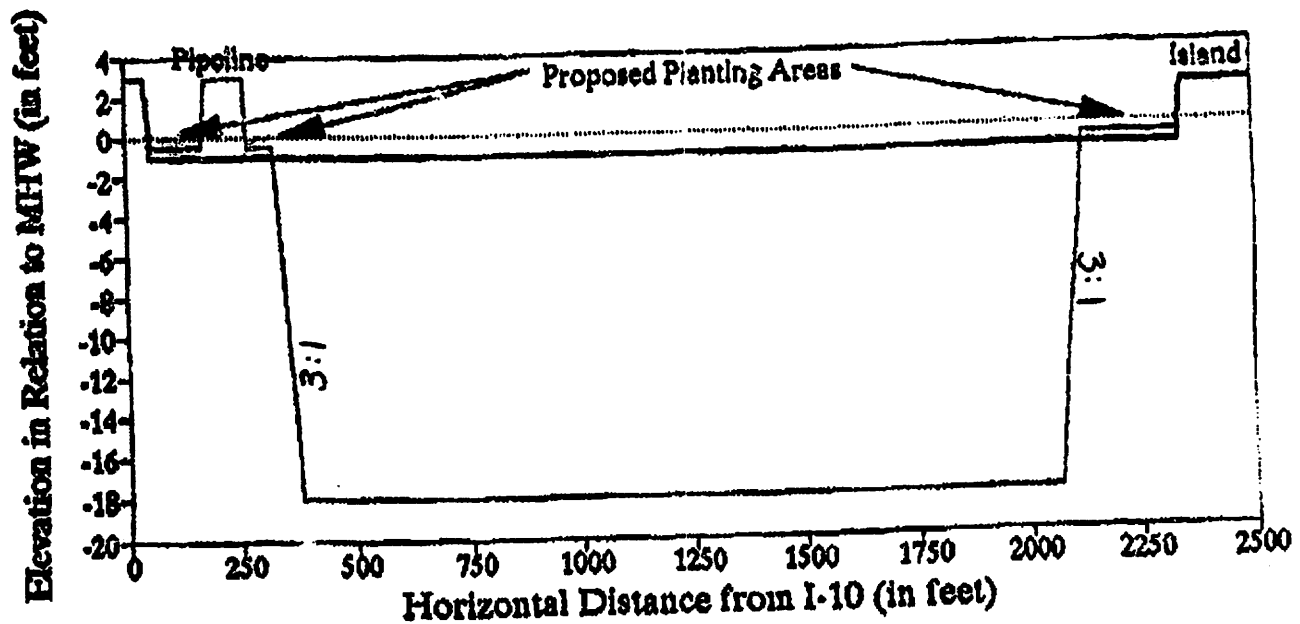




- NOTES:
- ① ALL SLOPES AROUND PERIMETER OF DREDGING Plan view of proposed mitigation WILL BE 3:1
 - ② ALL PLANTED AREAS WILL BE PROTECTED BY "CAGING" OR FENCING.

19284
HOUSTON
INTERNATIONAL TERMINALS
PG. 2 OF 6

Cross Section of Dredged Area A --- A



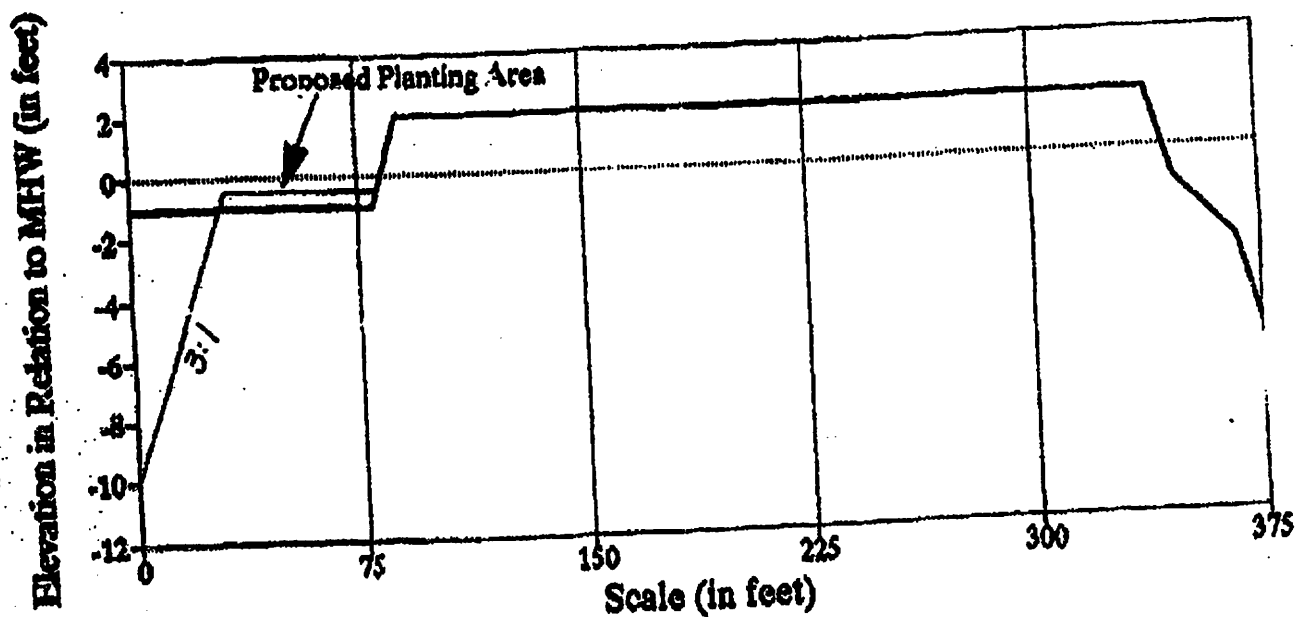
SLOPES = 3:1

— Proposed Contour — Existing Contour

Cross-section A --- A of proposed mitigation

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HOUSTON INTERNATIONAL
TERMINALS
PG. 3 OF 5

Cross Section of Planting Area B --- B



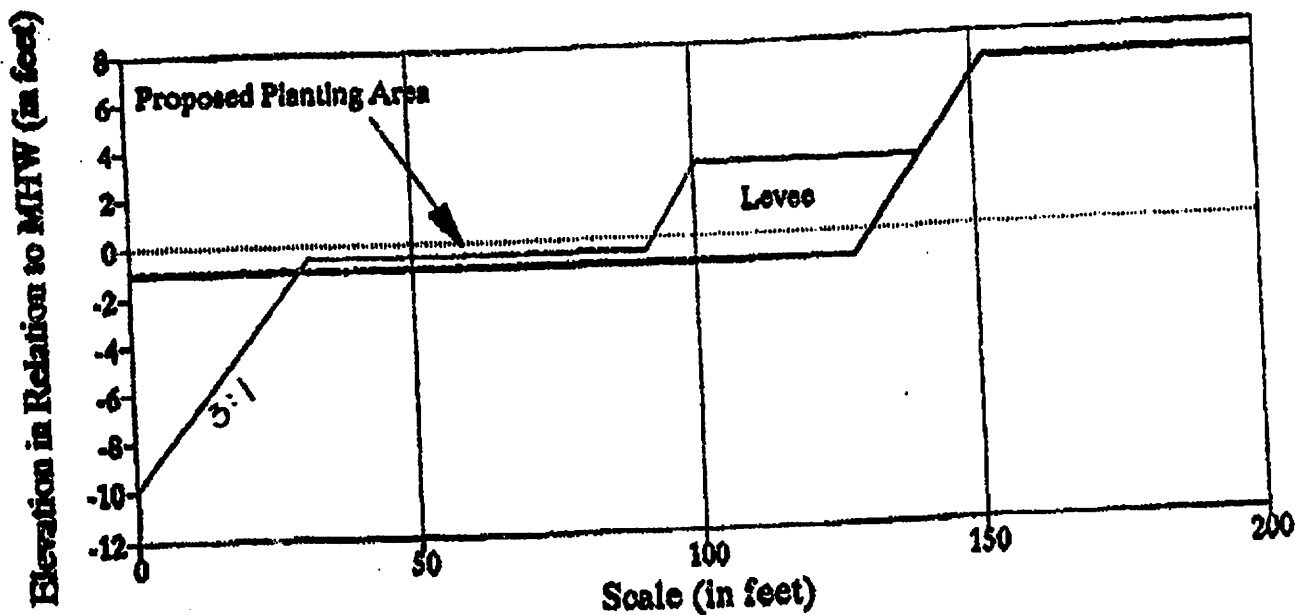
SLOPES = 3:1

— Proposed Contour — Existing Contour

Cross-section B --- B of proposed mitigation

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HOUSTON INTERNATIONAL
TERMINALS
PG. 4 OF 5

Cross Section of Planting Area C --- C



SLOPES = 3:1

— Proposed Contour — Existing Contour

Cross-section C --- C of proposed mitigation

#19284
HOUSTON INTERNATIONAL
TERMINALS
Pg. 5 of 6

* JANE BOSLO T MAR 12 1992

Addendum to Conceptual Mitigation Plan Prepared for
Houston International Terminal

In the course of the permit evaluation, several parties — such as the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the Galveston Bay Foundation — expressed concerns about the proposed mitigation. In order to address these concerns, Houston International Terminal (the Applicant) proposes to plant the areas of suitable elevation referenced in the mitigation plan (approximately 15.2 acres) with Smooth Cordgrass, *Spartina alterniflora*.

The planting will be performed in four phases (Figure 3) as the dredging progresses. The first phase would consist of planting approximately 4.3 acres, and would begin between March 15 and May 31 of the first year following initiation of dredging operations. The remaining three phases (5.1 acres, 3.2 acres, and 2.6 acres, respectively) would occur over the 7 to 10 year life of the project. Since the commercial demand for sand will dictate the rate at which dredging occurs, a definite timetable cannot be guaranteed for phases 2, 3, and 4, although the March 15 to May 31 window will be adhered to whenever planting occurs.

Per the U.S. Fish and Wildlife Service's June 11, 1991, and the National Marine Fisheries Service's June 18, 1991, comment letters, the Smooth Cordgrass will be planted on three-foot centers. The areas to be planted will be leveled at -0.5 feet MHW. Each planting unit will consist of a single plug containing one to four stems.

To avoid damage to the marsh where the transplants will be acquired, no more than one six-inch plug of source material per one square yard will be obtained. In addition, the Applicant will, to the greatest extent practicable, access the source material in the borrow marsh in a manner that does not destroy or lower the ground elevation of the marsh. Although the Applicant would be willing to replant any areas with less than 70 percent survival through normal mortality after a one year period, this would not include mortality as a result of oil or chemical spills, boat traffic, hurricanes, or similar events beyond the Applicant's control.

In addition, the proposed mitigation will be dependent upon whether or not there is sufficient sand to be commercially feasible. In this regard, once the permit is issued, a minimal pilot dredging operation will be conducted in order to make this determination. If it is determined that there is insufficient sand to proceed, no additional dredging will occur and the Applicant will not be bound to initiate or complete the mitigation.

According to the Galveston Bay Foundation's March 1, 1991, comment letter, they plan to continue cordgrass planting in the project area for at least four more years. The Applicant will be willing to cooperate with the Foundation in this endeavor if the dredging project is feasible. Houston International Terminal believes the proposed mitigation will greatly improve the habitat diversity of the area, and is more than adequate compensation for the shallow water habitat that will be lost as a result of the proposed dredging activity.

#19284
HOUSTON INTERNATIONAL
TERMINALS
PG. 6 OF 6

PERMIT ACTION SHEET

FINAL ACTION

FINAL ACTION CODES

1-1-1

FINDINGS OF FACT

05A4A2

CODE

I

APPL WITHDRAWN

1-1-1

APPL DENIED

1-1-1

APPL REFERRED

1-1-1

DRAFT PERMIT

FORWARDED

05A4A2

PERMIT ISSUED

05A4A2

PERMIT EXPIRATION

DATE

12/31/05

FINAL ACTION CODES

I-ISSUED

D-DENIED

W-WITHDRAWN

REMARKS

RECEIVED
APR 02 2008
LEGAL DEPARTMENT
WASTE MANAGEMENT

EVALUATION OF SECTION 404(b)(1) GUIDELINES - SHORT FORM

APPLICANT: Houston International
Terminal

APPLICATION NUMBER: 19284

1. Review of Compliance (230.10(a)-(d)). A review of the permit application indicates that:

- a. The discharge represents the least environmentally damaging practicable alternative and if in a special aquatic site, the activity associated with the discharge must have direct access or proximity to, or be located in the aquatic ecosystem to fulfill its basic purpose (if no, see section 2 and information gathered for EA alternative);

YES X NO*

- b. The activity does not appear to:
- 1) Violate applicable state water quality standards or effluent standards prohibited under Section 307 of the CWA;
 - 2) Jeopardize the existence of Federally listed endangered or threatened species or their habitat; and
 - 3) Violate requirements of any Federally designated marine sanctuary (if no, see section 2b and check responses from resource and water quality certifying agencies);

YES X NO*

- c. The activity will not cause or contribute to significant degradation of waters of the U.S. including adverse effects on human health, life stages of organisms dependent on the aquatic ecosystem, ecosystem diversity, productivity and stability, and recreational, aesthetic, and economic values (if no, see values, section 2);

YES X NO*

- d. Appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem (if no, see section 5).

YES X NO*

2. Technical Evaluation Factors (Subparts C-F) (Where a significant category is checked, add explanation below.)

	N/A	NOT SIGNIFICANT	SIGNIFICANT*
a. Physical and Chemical Characteristics of the Aquatic Ecosystem (Subpart C)			
1) Substrate impacts	_____	<u> X </u>	_____
2) Suspended particulates/turbidity impacts	_____	<u> X </u>	_____
3) Water column impacts	_____	<u> X </u>	_____
4) Alteration of current patterns and water circulation	_____	<u> X </u>	_____
5) Alteration of normal water fluctuations/hydroperiod	_____	<u> X </u>	_____
6) Alteration of salinity gradients	_____	<u> X </u>	_____
b. Biological Characteristics of the Aquatic Ecosystem (Subpart D)			
1) Effect on threatened/endangered species and their habitat	<u> X </u>	_____	_____
2) Effect on the aquatic food web	_____	<u> X </u>	_____
3) Effect on other wildlife (mammals, birds, reptiles and amphibians)	_____	<u> X </u>	_____
c. Special Aquatic Sites (Subpart E)			
1) Sanctuaries and refuges	<u> X </u>	_____	_____
2) Wetlands	_____	<u> X </u>	_____
3) Mud flats	<u> X </u>	_____	_____
4) Vegetated shallows	<u> X </u>	_____	_____
5) Coral reefs	<u> X </u>	_____	_____
6) Riffle and pool complexes	<u> X </u>	_____	_____
d. Human Use Characteristics (Subpart F)			
1) Effects on municipal and private water supplies	_____	<u> X </u>	_____
2) Recreational and Commercial fisheries impacts	_____	<u> X </u>	_____
3) Effects on water-related recreation	_____	<u> X </u>	_____
4) Aesthetic impacts	_____	<u> X </u>	_____
5) Effects on parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves	<u> X </u>	_____	_____

3. Evaluation of Dredged or Fill Material (Subpart G)**

- a. The following information has been considered in evaluating the biological availability of possible contaminants in dredged or fill material. (Check only those appropriate.)

- | | |
|--|---------------|
| 1) Physical characteristics | <u> X </u> |
| 2) Hydrography in relation to known or anticipated sources of contaminants | <u> X </u> |
| 3) Results from previous testing of the material or similar material in the vicinity of the project | <u> X </u> |
| 4) Known, significant sources of persistent pesticides from land runoff or percolation | <u> </u> |
| 5) Spill records for petroleum products or designated (Section 311 of CWA) hazardous substances | <u> </u> |
| 6) Other public records of significant introduction of contaminants from industries, municipalities or other sources | <u> </u> |
| 7) Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities | <u> </u> |
| 8) Other sources (specify) | <u> </u> |

List appropriate references.

The Texas Water Commission certified the project on 6 November 1991.

- b. An evaluation of the appropriate information in 3a above indicates that there is reason to believe the proposed dredge or fill material is not a carrier of contaminants, or that levels of contaminants are substantively similar at extraction and disposal sites and not likely to degrade the disposal sites, or the material meets the testing exclusion criteria.

YES X NO

4. Disposal Site Delineation (230.11(f))

a. The following factors, as appropriate, have been considered in evaluating the disposal site:

- | | |
|---|---------------|
| 1) Depth of water at disposal site | <u> X </u> |
| 2) Current velocity, direction, and variability at disposal site | <u> X </u> |
| 3) Degree of turbulence | <u> </u> |
| 4) Water column stratification | <u> </u> |
| 5) Discharge vessel speed and direction | <u> X </u> |
| 6) Rate of discharge | <u> X </u> |
| 7) Dredged material characteristics (constituents, amount, and type of material, settling velocities) | <u> X </u> |
| 8) Number of discharges per unit of time | <u> X </u> |
| 9) Other factors affecting rates and patterns of mixing (specify) | <u> </u> |

List appropriate references.

The overburden will be used to create 15.2 acres of mitigated wetlands in 4 phases of 4.3, 5.1, 3.2, and 2.6 acres, respectively, in proportion to 4 stages of dredging 2.6, 3.1, 1.9, and 1.6 acres (9.25 acres total).

The overburden material will be planted with smooth cordgrass on 3-foot centers of plugs comprised of 1-4 stems each. Fencing will be placed around these sites to prevent grazing by herbivorous fish.

The dredged sand material will be placed on barges to be sold commercially.

b. An evaluation of the appropriate factors in 4a above indicates that the disposal site and/or size of mixing zone are acceptable.

YES X NO

5. Actions to Minimize Adverse Effects (Subpart H)

All appropriate and practicable steps have been taken, through application of recommendations of 230.70-230.77 to ensure minimal adverse effects of the proposed discharge. List actions taken.

YES X NO

a. Using appropriate equipment or machinery in activities related to the discharge of dredged or fill material.

b. Employing appropriate machinery and methods of transport of the material for discharge.

6. Factual Determination (230.11) A review of appropriate information as identified in items 2-5 above indicates that there is minimal potential for short or long-term environmental effects of the proposed discharge as related to:

- a. Physical substrate at the disposal site
(review sections 2a, 3, 4, and 5) YES X NO*
- b. Water circulation, fluctuation and salinity
(review sections 2a, 3, 4, and 5) YES X NO*
- c. Suspended particulates/turbidity
(review sections 2a, 3, 4, and 5) YES X NO*
- d. Contaminant availability
(review sections 2a, 3, and 4) YES X NO*
- e. Aquatic ecosystem structure and function
(review sections 2b and c, 3, and 5) YES X NO*
- f. Disposal site
(review sections 2, 4, and 5) YES X NO*
- g. Cumulative impact on the aquatic ecosystem YES X NO*
- h. Secondary impacts on the aquatic ecosystem YES X NO*

7. Evaluation Responsibility

- a. This evaluation was prepared by: Jane M. Boslet *Jane M. Boslet*
Position: Project Manager
- b. This evaluation was reviewed by: Bruce H. Bennett *Bruce H. Bennett*
Position: Acting Chief, North Evaluation Section

8. Findings

- a. The proposed disposal site for discharge of dredged or fill material complies with the Section 404(b)(1) Guidelines. X
- b. The proposed disposal site for discharge of dredged or fill material complies with the Section 404(b)(1) Guidelines with the inclusion of the following conditions:
- c. The proposed disposal site for discharge of dredged or fill material does not comply with the Section 404(b)(1) Guidelines for the following reason(s):
- 1) There is a less damaging practicable alternative
 - 2) The proposed discharge will result in significant degradation of the aquatic ecosystem
 - 3) The proposed discharge does not include all practicable and appropriate measures to minimize potential harm to the aquatic ecosystem

5/4/92
(date)

Dolan Dunn
DOLAN DUNN
Acting Chief, Regulatory Branch

**ENVIRONMENTAL ASSESSMENT
AND
STATEMENT OF FINDINGS**

1. Name and Address of Applicant.

Houston International Terminal
18001 Interstate 10 East
Channelview, Texas 77530

2. Corps Authority. Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

3. Project and Site Description. The proposed project is located in the San Jacinto River, along the south bank, just north of the Interstate 10 bridge, in Channelview, Harris County, Texas. The applicant seeks authorization to dredge 9.25 acres of sand to a depth of -18.0 feet mean sea level for commercial sale and to provide a barge berthing area. The dredging would be performed in four stages of 2.6, 3.1, 1.9, and 1.6 acres. Along with each stage of dredging, a phase of smooth cordgrass marsh would be created using the overburden from the dredging. Initially, a 4.3 acre area would be planted, followed by 5.1, 3.2, and 2.6 acres (15.2 acres total) to coincide with the final three dredging stages. The mitigation plan entails planting smooth cordgrass on three-foot centers at an elevation of -0.5 feet mean high water with each planting consisting of a single plug containing one to four stems. The applicant will replant, as necessary, any area with less than 70 percent survival after one year. In addition, each phase of the grass planting will be fenced with wire mesh to prevent excess sloughing of the overburden material and grazing by herbivorous fish in the river. All slopes in the dredging area will be 3:1.

4. Environmental Assessment.

a. Purpose and for the Work. The purpose of the project is twofold, to create a barge fleeting area and to commercially sell the dredged sand. The need for a barge fleeting area exists in order to accommodate barges that service numerous petrochemical industries in the Houston area, especially during an emergency such as a hurricane.

b. Alternatives. There are no unresolved conflicts concerning alternatives.

c. Environmental Setting. The project site is a flooded bottomland that has been substantially altered by subsidence, erosion, and sedimentation. The area is open shallow water with a few islands on the northern border. The area was once a

PERMIT APPLICATION-19284

freshwater, palustrine forested wetland area and is now estuarine. Salinities regularly reach 10 parts per thousand in the area. Since the area has subsided, its value and function has changed to nursery and forage habitat for juvenile, estuarine-dependent fish and shellfish. Birds also utilize the shallow flats as foraging habitat.

d. Environmental Impacts. The possible consequences of this proposed work were studied for environmental concerns, social well-being, and the public interest, in accordance with regulations published in 33 C.F.R. 320-330. All factors which may be relevant to the proposal must be considered. The following factors were determined to be particularly relevant to this application and were evaluated appropriately.

(1) Historic and Cultural Resources. The National Register of Historic Places has been consulted and no properties are listed in the permit area. No sites that are eligible for listing or potentially eligible for listing on the National Register are expected to be impacted by the work.

(2) Navigation. The dredging should not impede commercial or recreational navigation. The project site is outside of the river channel and very shallow, so boat use does not occur in the immediate area. After completion, the basin site will provide mooring area for barges which will aid navigational safety.

(3) Water Quality. The Texas Water Commission certified that the project would not violate established Texas Water Quality Standards pursuant to the provisions of Section 401 of the Clean Water Act.

Temporary turbidity is probable during construction operations resulting in minimal damage to fish and wildlife habitat and other biota. No lasting water pollution will occur.

(4) Endangered Species. No known endangered species or their critical habitat will be affected by the proposed work.

(5) Fish and Wildlife Values. The project site is a shallow water, estuarine habitat. Wading birds utilize the area for foraging. The site also provides nursery and forage habitat for juvenile estuarine dependent fish and shellfish that are important commercial and recreational species.

(6) Floodplain Management. In accordance with Executive Order 11988, the District Engineer should avoid authorizing floodplain developments whenever practicable alternatives exist outside the floodplain. This proposed

PERMIT APPLICATION-19284

activity is dependent on being located in or adjacent to the aquatic environment and impacts to the floodplain would be minimal.

(7) Shore Erosion and Accretion. Increased shoreline erosion or accretion is not expected to occur as a result of this project. Overburden material will be deposited in four phases along existing islands and the southern boundary of the dredging area and planted with marsh grass. Once established, the grasses should act to prevent erosion rates from increasing.

(8) Wetlands. Currently, smooth cordgrass and dwarf spikerush exist on the perimeters of several small islands between the project site and the river channel. Planting has been conducted over the past few years in efforts to reestablish the brackish marsh around the islands. As mitigation for this project's impacts to shallow open water habitat, 15.2 acres of marsh will be planted in four phases, concurrent with four stages of dredging. Smooth cordgrass will be planted on three-foot centers at an elevation of -0.5 feet mean high water. The plantings will be one to four stems each and replanting will occur after one year, if 70 percent survival is not reached. Functions and values of the wetlands should be enlarged and enhanced by this project.

(9) Other Federal, State, or Local Requirements. All required Federal, State, and/or local authorization or certifications necessary to complete processing of this application have been obtained. No required authorizations or certifications have been denied and none are known to exist which would preclude finalization of this permit action.

(10) Other Factors Considered. The following factors were considered during the evaluation process but were determined to not be particularly relevant to this application: conservation, economics, general environmental concerns, flood hazards, land use, recreation, water supply and conservation, energy needs, safety, food and fiber production, and mineral needs.

e. Cumulative Impacts. The assessment of cumulative impacts takes into consideration the effects upon an ecosystem of past, present, and reasonable foreseeable future projects. Every application must be considered on its own merits and its impacts on the environment must be assessed in light of historical permitting activity along with anticipated future activities in the area. Although a particular project may

PERMIT APPLICATION-19284

constitute a minor impact in itself, the cumulative effect of a large number of such projects could cause a significant impairment of water resources and interfere with the productivity and water quality of existing aquatic ecosystems.

Permits for sand dredging and barge fleeting basins have been issued in the past in many of Texas' river systems. Impacts of sand dredging in Texas river systems may be cumulative. In this application, the location of the dredging area is just north of a heavily industrialized area of the San Jacinto River that is routinely dredged. The river north of the project site is primarily used for recreational purposes. Sediment entering from small tributaries or runoff continues to accumulate, however much of the river-borne sediment is stopped from further downstream flow by the Lake Houston dam. It is this agency's contention that little river-borne sand from the upper reaches of the San Jacinto River actually make it to the beaches and estuary of Galveston Bay due to the numerous maintenance dredging projects that take place in the lower San Jacinto River and the Houston/Galveston Ship Channels and the Gulf Intracoastal Waterway. While cumulative impacts of sand dredging may occur in other river systems, this particular project, in the manner and location it is to be conducted is not expected to contribute to cumulative detrimental impacts to the natural environment.

f. Findings of No Significant Impact. There have been no significant adverse environmental effects identified resulting from the proposed work. The impact of this proposed activity on aspects affecting the quality of the human environment has been evaluated and it is determined that this action does not require an Environmental Impact Statement.

5. Statement of Findings.

a. Coordination. The formal evaluation process began with publication of a public notice on 31 January 1991. Copies of the public notice were forwarded to concerned Federal, State, and local agencies, organized groups, individuals and navigation districts. These entities included the following:

U.S. Fish and Wildlife Service
National Marine Fisheries Service
Environmental Protection Agency
U.S. Coast Guard
Texas Parks and Wildlife Department
Texas Historical Commission
General Land Office

PERMIT APPLICATION-19284

**National Ocean Survey, Atlantic Marine Center
American Waterways Operators
Adjacent Property Owners**

b. Response to the Public Notice.

(1) Federal Agencies. On 20 February 1991, the U.S. Fish and Wildlife Service (USFWS) recommended that the proposal be amended to include a depth of no more than one foot above the bottom elevation of the river or -12.0 feet mean sea level, that all intertidal emergent vegetation will be avoided, and that an area equal in size to that being excavated be enhanced to compensate for lost habitat due to the project. On 28 February 1991, the Environmental Protection Agency (EPA) recommended the applicant reduce the scope of the project to what is necessary for barge access, that the basin area be dredged no deeper than needed for barge access, that mitigation be performed at a 1:1 ratio to compensate for loss of shallow water habitat, and that a buffer zone be planned to protect adjacent areas with growing aquatic vegetation. On 1 March 1991, the National Marine Fisheries Service recommended the proposal be amended to limit the size of the excavation area to what is minimally required for a barge fleeting facility, that all vegetated wetlands be avoided, and that an area equal in size to the excavation be created or enhanced to provide tidal emergent habitat to compensate for unavoidable impacts to the environment. On 6 March 1991, the Soil Conservation Service (SCS) stated their opposition to the proposed project noting that they had been involved with a demonstration project to stabilize the shorelines of the islands between the work site and the river channel with marsh grass plantings. The project plans were coordinated with a Staff Archeologist on 10 January 1991.

(2) State and Local Agencies. On 8 March 1991, the Texas Parks and Wildlife Department (TPWD) recommended amending the proposal to reduce the size of the excavated area to the minimum size needed, to avoid all intertidal vegetation, to ensure a substantial buffer zone exists between the excavated area and the river channel, and to enhance or create an area equal to the dredged site for intertidal vegetation to establish. The Texas Water Commission (TWC) issued water quality certification for the project on 5 March 1991. On 14 March 1991, the TWC revoked its water quality certification for the project. On 6 March 1991, the Texas Department of Highways and Public Transportation (TDOT) recommended that no dredging operations be allowed closer than 100 yards from the Interstate 10 bridge and road right-of-way to ensure soil stability. On 1 March 1991, the Port of Houston Authority (PHA) recommended denial of the permit and stated concerns that the project would remove shallow water habitat and destroy the planting efforts

PERMIT APPLICATION-19284

done to reestablish brackish marsh habitat adjacent to the proposed work site. On 17 February 1991, the Texas Historical Commission stated that a cultural resources survey and evaluation was warranted for the proposed project area.

(3) Individual and Organized Groups. On 1 March 1991, the Galveston Bay Foundation (GBF) stated that for the past two years and for the next four years, they are involved planting marsh grasses in the intertidal zone of islands between the project area and the river channel as part of a demonstration project with the SCS and PHA. They stated opposition to the project in terms of aesthetics, safety, and habitat degrading practices of barge fleeting areas. On 9 February 1991, Robert M. Craig stated objections to the project. Specifically, he objected to the loss of habitat and productivity of shallow bay bottom and tidal wetlands due to dredging, possible increased air pollution from the barges, deterioration of the ongoing marsh grass plantings, possible archeological sites in the area, and the aesthetic and safety impacts a barge fleeting area would have on the area. On 14 May 1991, Exxon Pipeline Company stated concerns that the dredging would occur too close to their pipelines that run across the southern portion of the project and parallel to Interstate 10. They recommended that the limit of dredging operations be a distance of not less than 100 feet from the pipelines, that the Corps determine a slope that would be sufficient to prevent sloughing and erosion of the submerged bank, and that a 2-3-foot thick layer of soil be placed over the pipeline easement to provide additional protection from possible damage of large vessels coming to rest over the pipelines.

c. Response to Comments. On 12 March 1991, the comment letters were sent to the applicant. On 26 April 1991, the applicant submitted revised drawings, including a mitigation plan to representatives from the Corps, TPWD, and USFWS during a meeting. At that time the applicant was informed that the plans were inadequate and lacked cross-section views, elevations, and specific dimensions. All agency representatives recommended to the applicant that he hire an environmental consultant to help him with designs. On 27 May 1991, revised mitigation plans were submitted and subsequently coordinated with Federal and State resource agencies on 3 June 1991.

d. Response to Coordinated Mitigation Plans.

(1) Federal Agencies. On 18 June 1991, the NMFS recommended the entire 15.2 acres to be used for mitigation be planted with smooth cordgrass between 15 March and 31 May after dredging begins, with each planting consisting of 1 to 4 stems on 3-foot centers. In addition, no more than one 6-inch plug of

PERMIT APPLICATION-19284

source material per one-square yard shall be obtained from the borrow area in a manner that does not destroy or lower the ground elevation of the remaining marsh. A monitoring program should be conducted within 60 days of planting, with a second planting occurring if 50 percent survival has not been reached. A written report and photo documentation should be submitted to the Corps and NMFS following the survey. Similarly, if after 1 year 70 percent coverage has not been achieved, replanting should occur with a survey report and photo documentation submitted to the Corps and NMFS. On 11 June 1991, the USFWS stated it would have no objections to the project if the applicant agreed to plant smooth cordgrass in the 15.2 acre mitigation area on 3-foot centers.

(2) State and Local Agencies. On 10 July 1991, the TPWD stated that a permit from the TPWD Fisheries Division is required to plant grasses in state waters. In addition, they recommended that galvanized wire mesh fencing be used to protect them from grazing fish. On 14 June 1991, the TWC stated that in order to "re-review" a project they have denied water quality certification for, the proposed changes need to be re-public noticed as "revised."

(3) Individual and Organized Groups. On 26 June 1991, the GBF stated that the project still did not address planting grasses rather than allowing natural colonization, water quality issues, the purpose and need for the work, and engineering evaluation of protection of Exxon pipelines. On 21 June 1991, Exxon Pipeline Company stated that they upheld the concerns they stated in their 14 May 1991 letter. On 29 May 1991, Mr. Roy Vanya forwarded a letter he had sent to Houston Community Newspapers in Channelview, Texas stating concerns of increased water and air pollution, boat traffic, and decreased aesthetic values and recreational use of the river. On 29 May 1991, Allyson Burnett wrote a letter stating her opposition to the project and concerns of increased water pollution and erosion of the shoreline and a decline in the aesthetic value of the area.

On 2 August 1991, comment letters were sent to the applicant. On 18 September 1991 a revised Public Notice was issued that included a mitigation plan.

e. Response to Revised Public Notice.

(1) Federal Agencies. On 16 October 1991, the NMFS stated that they upheld recommendations made in their 18 June 1991 letter. On 24 October 1991, the USFWS stated no objections to the proposed project. On 1 November 1991, the EPA stated opposition to the project until the applicant develops an

PERMIT APPLICATION-19284

equitable mitigation plan that includes appropriate replacement, restoration, or enhancement of wetlands. On 7 November 1991, the FWS sent a revised letter recommending planting of smooth cordgrass be part of the mitigation plan.

(2) State and Local Agencies. On 30 September 1991, the TDOT were concerned that possibly some of the mitigation would encroach their right-of-way and potentially impact any future widening plans for Interstate 10. On 14 October 1991, the Crosby-Huffman Chamber of Commerce stated that the proposed barge facility would be detrimental to the river by inhibiting recreational use and potentially upset environmentally sensitive estuaries. On 11 October 1991 the Texas State Historic Preservation Officer concurred with the revised Public Notice. On 6 November 1991, the TPWD upheld comments made in their 10 July 1991 letter. They also stated that mitigation plans should contain a facility location diagram, cross-section details, descriptions of the terrestrial/wetland mitigation and landscaping planting, maintenance, and monitoring schedules. Finally, they stated that a -18.0 foot depth is in excess of depth needed for fleeting barges and that a sand dredging permit is required from them for commercial production of sand. On 6 November 1991, the TWC issued water quality certification for the revised project.

(3) Individuals and Organized Groups. On 21 September 1991, the Lone Star Chapter of the Sierra Club stated concerns about the project's impacts to surrounding wetlands and that planting of grasses should occur. On 30 September 1991, Exxon Pipeline Company stated it continued to uphold comments made in their 14 May 1991 letter. On 21 October 1991, the GBF stated that they upheld comments made in their 26 June 1991 letter.

f. Resolution of Outstanding Comments. On 19 December 1991, the applicant submitted rebuttal comments to objection letters. On 2 January 1992, the applicant was informed by telephone that details on planting densities, amounts, methods of stabilization of the mitigation plan (including cross-sections) needed to be submitted. On 3 January 1992, the applicant submitted a letter from the TPWD stating he did not need a sand dredging permit because the work was being conducted on private property. On 11 February 1992, the applicant submitted copies of letters from the dredging contractor and his insurance company stating that dredging would remain away from all pipeline easements and that the liability would lie on the dredging contractor if a violation occurred. In addition, the applicant stated that he was trying to work out planting details with guidance from the SCS and GBF. On 24 February 1991, the GBF stated that they would not participate in mitigation efforts with the applicant because they opposed barge operations north

PERMIT APPLICATION-19284

of the Interstate 10 Bridge. On 21 February and 12 March 1992, the additional mitigation information was submitted by the applicant. This provided for planting of smooth cordgrass in 4 phases to coincide with the dredging stages. Plantings would contain 1-2 stems each and be planted on 3-foot centers at a depth of -0.5 foot mean high water. The four phases are 4.3, 5.1, 3.2, and 2.6 acres in size (15.2 acres total) to coincide with dredging of 2.6, 3.1, 1.9, and 1.6 acres (9.25 acres total). This "staging" is to ensure that mitigation occurs in proportion to the amount of overburden dredged. On 25 March 1992, the applicant's consultant stated by telephone that the planting areas will be fenced to protect the grasses from predation by herbivorous fish. This will be made a condition to the permit. All slopes in the dredging area, whether around existing land or along mitigation sites, will be 3:1.

The final complete mitigation plan was coordinated by facsimile with Federal and State resource agencies on 16 April 1992. On 20 April 1992, the EPA, NMFS, and FWS all stated that they had no further objections to the proposal. On 21 April 1992, the TPWD stated via telephone that they would be sending further comments, however no further correspondence has been received.

g. Conclusion. We have reviewed and evaluated, in light of the overall public interest of the documents and factors concerning this permit application, as well as the stated views of other interested Federal and non-Federal agencies and the concerned public, relative to the proposed work in navigable waters of the United States. This evaluation is in accordance with the guidelines contained in 40 C.F.R. 230 pursuant to Section 404(b) of the Clean Water Act.

Based on our review, we find that the proposed project is not contrary to the public interest and that a Department of the Army permit should be issued.

FOR THE COMMANDER:

BWB
BENNETT

5/4/92
(Date)

Dolan Dunn
DOLAN DUNN
Acting Chief, Regulatory Branch

CONVERSATION RECORD

DATE: 20 April 1992

PERMIT APPLICATION: 19284

CONTACT: Mike Morgan, USFWS
Jay Gamble, EPA

NOTES: Both Mike Morgan and Jay Gamble called to say that their respective agencies did not have any further objection to the issuance of Permit 19284.

PROJECT MANAGER: Jane Boslet

CONVERSATION RECORD

DATE: 24 and 25 March 1992

PERMIT APPLICATION: 19284

CONTACT: R. Darrell Smith, Smith-Jones Environmental
Services

Eddie Sidensticker, SCS

NOTES: Darrell Smith called to respond to my fax to him and Capt. Jack on 24 March 1992, recommending fencing be used around the new marshes to protect them from grazing herbivorous fish (grass carp). I also spoke with Eddie Sidensticker on 24 March, inquiring if the fencing was necessary in that area, since he has done extensive planting and advising for the Galveston Bay Foundation on the adjacent islands. He said unless grasses are in the fencing, the grass carp will eat it all.

PROJECT MANAGER:

James M. Boslet

CONVERSATION RECORD

DATE: 24 and 25 March 1992

PERMIT APPLICATION: 19284

CONTACT: R. Darrell Smith, Smith-Jones Environmental
Services

Eddie Sidensticker, SCS

NOTES: Darrell Smith called to respond to my fax to him and Capt. Jack on 24 March 1992, recommending fencing be used around the new marshes to protect them from grazing herbivorous fish (grass carp). I also spoke with Eddie Sidensticker on 24 March, inquiring if the fencing was necessary in that area, since he has done extensive planting and advising for the Galveston Bay Foundation on the adjacent islands. He said unless grasses are in the fencing, the grass carp will eat it all.

PROJECT MANAGER: Jane M. Boslet

R. Darrell Smith - Smith-Jones Environmental Services
24 March 1992

Darrell:

The Addendum to the Mitigation Plan and subsequent letter stating that the mitigation would occur in proportion to the dredging (in 4 phases) appears to be O.K. One final comment made by the U.S. Fish and Wildlife Service is that the planted areas should be protected with fencing and/or caging to protect the marsh during establishment from grazing fish. During our site visit last spring, I noted that the plantings done by the Galveston Bay Foundation were, in fact, protected by chicken wire fencing (and caging in instances). I believe Eddie Sidensticker would agree on this recommendation. I would like to include a condition on the permit to the effect that fencing would be used to protect the new plantings to prevent grazing and help retain the soil until the grasses establish themselves. Replanting of areas with less than 70 percent survival through natural mortality would occur after 1 year as you stated. Of course, mortality of grasses due to hurricanes, spills outside of the applicant's control, etc., would not need to be replanted.

If this is satisfactory, please let me know and I'll start the final summary documents. I think this is all that needs to be addressed. Thanks.

Jane Boslet

Copy to:

Captain Jack Roberts, HIT

17 MAR 1992

Mr. Jack Roberts
Houston International Terminal
Houston, Texas 77553-1229

Re: Permit Application 19284, Houston International Terminal

Dear Mr. Roberts:

This is in reference to your telephone request of earlier today for some additional information concerning the proposed mitigation for Houston International Terminal's pending permit application. Specifically, you requested the number of acres that will be dredged in each of the four phases referenced in the mitigation plan.

I spoke with Capt. Roberts this afternoon, and he proposes to make each dredging phase proportional with the amount of mitigation which will be performed. In other words, since the area to be dredged will be as much as 9.25 acres, the first phase would be complete when 2.6 acres have been dredged. The remaining three phases would involve additional dredging of 3.1, 1.9, and 1.6 acres, respectively.

If you require anything further, please do not hesitate to contact me. Thank you for your time and consideration.

Sincerely,


R. Darrell Smith

cc: Capt. Jack Roberts
Houston International Terminal



JONES/SMITH ENVIRONMENTAL SERVICES, INC.
4606 28th Street
Dickinson, Texas 77539
Phone: (713) 534-3432, Fax: (713) 337-2709

* JANE BOSLOTT MAR 12 1992

**Addendum to Conceptual Mitigation Plan Prepared for
Houston International Terminal**

In the course of the permit evaluation, several parties — such as the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the Galveston Bay Foundation — expressed concerns about the proposed mitigation. In order to address these concerns, Houston International Terminal (the Applicant) proposes to plant the areas of suitable elevation referenced in the mitigation plan (approximately 15.2 acres) with Smooth Cordgrass, *Spartina alterniflora*.

The planting will be performed in four phases (Figure 3) as the dredging progresses. The first phase would consist of planting approximately 4.3 acres, and would begin between March 15 and May 31 of the first year following initiation of dredging operations. The remaining three phases (5.1 acres, 3.2 acres, and 2.6 acres, respectively) would occur over the 7 to 10 year life of the project. Since the commercial demand for sand will dictate the rate at which dredging occurs, a definite timetable cannot be guaranteed for phases 2, 3, and 4, although the March 15 to May 31 window will be adhered to whenever planting occurs.

Per the U.S. Fish and Wildlife Service's June 11, 1991, and the National Marine Fisheries Service's June 18, 1991, comment letters, the Smooth Cordgrass will be planted on three-foot centers. The areas to be planted will be leveled at -0.5 feet MHW. Each planting unit will consist of a single plug containing one to four stems.

To avoid damage to the marsh where the transplants will be acquired, no more than one six-inch plug of source material per one square yard will be obtained. In addition, the Applicant will, to the greatest extent practicable, access the source material in the borrow marsh in a manner that does not destroy or lower the ground elevation of the marsh. Although the Applicant would be willing to replant any areas with less than 70 percent survival through normal mortality after a one year period, this would not include mortality as a result of oil or chemical spills, boat traffic, hurricanes, or similar events beyond the Applicant's control.

In addition, the proposed mitigation will be dependent upon whether or not there is sufficient sand to be commercially feasible. In this regard, once the permit is issued, a minimal pilot dredging operation will be conducted in order to make this determination. If it is determined that there is insufficient sand to proceed, no additional dredging will occur and the Applicant will not be bound to initiate or complete the mitigation.

According to the Galveston Bay Foundation's March 1, 1991, comment letter, they plan to continue cordgrass planting in the project area for at least four more years. The Applicant will be willing to cooperate with the Foundation in this endeavor if the dredging project is feasible. Houston International Terminal believes the proposed mitigation will greatly improve the habitat diversity of the area, and is more than adequate compensation for the shallow water habitat that will be lost as a result of the proposed dredging activity.

PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICES: 111 East Loop North • P.O. BOX 2562 • HOUSTON, TEXAS 77252-2562
TELEPHONE: (713) 670-2400
FAX: (713) 670-2811

F. W. COLBURN
Director of Economic Development
(713) 670-2607



July 6, 1992

Colonel Brink P. Miller, Commander
U.S. Army Corps of Engineers,
Galveston District
P.O. Box 1229
- Galveston, Texas 77558-1229

Subject: Permit Application 19284

Dear Colonel Miller:

On March 1, 1991 the Port of Houston Authority objected to Permit Application 19284 filed on behalf of Houston Intercontinental Terminals. A copy of that letter of objection is attached. Subsequently, on April 2, 1991 there was a meeting in the offices of the applicant attended by representatives of the Authority, Exxon Pipeline Company, Galveston Bay Foundation, Texas Water Commission, Corps of Engineers, National Marine and Fisheries Service and Texas Parks and Wildlife Department. A number of questions were raised during that meeting concerning the propriety of the requested permit.

Apparently, there was a subsequent agreement between some, but not all, of the parties involved as to conditions that might be attached to the permit in order for it to be promptly issued. A copy of the Corps coordination letter of June 3, 1991 is also attached. You will note that the Port of Houston Authority, although on record in your office as having filed a written objection to the permit, was not advised of this accommodation to the applicant. The first notice the Port Authority had of further action occurred in early June when it was contacted by a representative of the press asking if the Port Authority was aware of dredging that was going on at the permit location. Inquiries to your office resulted in a facsimile transmittal on June 10, 1992 of a copy of the permit issued by your office, with conditions, on May 11, 1992. Again, the Authority had not been favored with a copy of the permit.

The obvious question raised by the foregoing series of events, is just what the net positive effect is of requirements for the U.S. Army Corps of Engineers to give public notice before granting permits, when it can proceed to grant same after receiving written objection and without subsequent notice to the objecting party? It is obvious to us that either by inadvertence or design the Corps of Engineers ignored the interest of the Port

Colonel Brink P. Miller, Commander
July 6, 1992
Page 2

of Houston Authority in this matter and, contradictory to its own practices and procedures, issued this permit without advising the Authority as an interested party which had filed a written objection in the proceeding.

This is to advise that the Port of Houston Authority still most strenuously objects to the manner in which Permit 19284 was granted and recommends that the approval thereof be withdrawn as having been improvidently granted.

Very truly yours,


F. William Colburn

FWC:rds
attachments



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

REPLY TO
ATTENTION OF:

Regulatory Branch

AUG 12 1992

SUBJECT: Permit - 19284

Mr. F. William Colburn
Director of Economic Development
Port of Houston Authority
P.O. Box 2562
Houston, Texas 77252-2562

Dear Mr. Colburn:

This is in reference to your letter dated July 6, 1992, regarding Permit 19284 issued to Houston International Terminals to perform dredging in order to create a barge fleeting area and to commercially sell the dredged sand. The project is located in the San Jacinto River upstream of the Interstate 10 bridge in Channelview, Texas.

The original Public Notice for this permit, issued on January 31, 1991, was the subject of the Port of Houston Authority's (PHA) March 1, 1991, letter. The PHA based its objections on property rights and environmental concerns. The applicant subsequently made several changes to address the environmental issues and provided a mitigation plan that met the approval of the Federal and State resource agencies. A second Public Notice (enclosed) was issued on September 18, 1991, to inform the public of the revisions. The PHA did not respond to the second notice and we, therefore, assumed its concerns had been properly addressed. This is consistent with our standard operating procedures. This was explained in detail to PHA Director, Mr. Tom Kornegay, by Mr. Dolan Dunn of my Regulatory Staff.

The issue over property rights is another matter. The regulatory process does not question property rights, but depends on the applicant's signature on the application as an affirmation that he possesses the authority to undertake the proposed activity. The issuance of a Public Notice helps to affirm any potential conflicts over property rights. The PHA's letter of March 1, 1991, suggested a potential conflict in ownership either by the State or the PHA. Since the State did not question ownership, the Corps was satisfied that no conflict existed.

-2-

I assure you that the Corps did not ignore the interests of the Port, nor intended to exclude your organization from any review process. Copies of approved permits are normally only provided to the respective permittee. Since Corps permits are considered public documents, however, they are available upon receipt of a written request and payment of search and reproduction fees.

Although I find no need to initiate revocation procedures, we will gladly meet with you to further discuss the permit or other Regulatory procedures. If you wish to meet or to discuss this matter, please contact Mr. Dolan Dunn, my Regulatory Branch Chief, at (409) 766-3935.

Sincerely,

John P. Basilotto
Colonel, Corps of Engineers
District Engineer

Enclosure

8/1/92
BENNETT
CESWG-CO-RN

8/7/92
DUNN
CESWG-CO-R

DE LA ROSA
CESWG-CO
8/10
8/11
DRIGGS
CESWG-CO

ARENZ
CESWG-DD
8/11/92

B
BASILOTTO
CESWG-DE

RET TO
CESWG-CO-RN



16 DEC 1992

COMMISSIONERS

YGNACIO D. GARZA
Chairman, Brownsville

JOHN WALSON KELSEY
Vice-Chairman
Houston

**TEXAS
PARKS AND WILDLIFE DEPARTMENT**

4200 Smith School Road • Austin, Texas 78744 • 512-389-4800

ANDREW SANSON
Executive Director

LEE M. BASS
Ft. Worth

HENRY C. BECK, III
Dallas

TERESE TARLTON HERSHEY
Houston

GEORGE C. TIM HIXON
San Antonio

CHUCK NASH
San Marcos

BEATRICE GARR PICKENS
Dallas

WALTER LUMPHREY
Beaumont

PERRY R. BASS
Chairman-Emeritus
Ft. Worth

December 14, 1992

Mr. John P. Basilotto
District Engineer
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Attention: Dolan Dunn

Dear Mr. Basilotto:

As you may be aware, the Texas Parks and Wildlife Department is currently reviewing the advisability of sand mining in the San Jacinto River between the Lake Houston Dam and the mouth of the river. Sound technical evidence is needed in the record to support the Commission's decision-making process and I am very interested in receiving any comment or review that you can provide.

The Department has proposed a rule placing a three-year moratorium on dredging in this stretch of the river. This will allow additional time for assessment and enable both the Coastal Zone Management Plan and the State Wetlands Conservation Plan to be developed. The proposed rule will be presented to the full Commission on January 21, 1993. A copy of the proposed rule is enclosed.

It would be very helpful to the Commission's determination if the Corps could revisit the issues addressed in your previous review of Parker LaFarge's permit application under Section 404 of the Clean Water Act. We are particularly interested in receiving testimony for our record concerning impacts of dredging on bank erosion and subsidence, river channel maintenance, the existence of sedimentary materials in the relevant area, water quality, recreation, and navigation.

Mr. John P. Basilotto
Page 2
December 14, 1992

I appreciate any time and effort that you may be able to devote to this issue prior to the above date and would welcome your comment as part of our record. Please call if I can provide further assistance or additional information.

Sincerely,


Andrew Sansom
Executive Director

AS:CAL:cal

Enclosure

SEP 03 1993



September 2, 1993

Ms. Jane M. Boslet, Biologist
U. S. Army Corps of Engineers
Galveston District
Regulatory Branch, Evaluation Sec.
P. O. Box 1229
Galveston, TX 77553-1229

Re: Permit No. 19284

Dear Ms. Boslet:

As described to you at the Inter-agency Meeting on July 21, 1993, we have entered into an agreement with Captain Jack Roberts, Houston International Terminal, to dredge sand for commercial purposes under the referenced Permit.

As described during that meeting, we will be proposing an amendment in the mitigation plan which will allow us to construct one contiguous wet land area which would ultimately be more beneficial as a habitat.

However, prior to submitting our formalized mitigation plan amendment, we will conduct a pilot dredging operation to determine that there is sufficient sand to be commercially feasible, and that it can be economically recovered. This pilot operation is allowed under the referenced Permit.

We will be moving the Dredge Echo II into the area on September 3, 1993, and plan to begin exploratory dredging by September 9, 1993. It is expected that these exploratory operations will take approximately 30 days.

After evaluation of our pilot dredging test data, we will formalize our amendment to the mitigation plan and submit it to your office for approval.

During the Inter-agency Meeting, you provided us with a list of information you would like to have included in the amendment. It would be much appreciated if you could request the other interested agencies to indicate the information they would like to have in the amendment so that we can address the entire matter at one time.

Mr. John M. Boulet

September 2, 1993

Page 2

If you have any questions or concerns relative to this pilot dredging operation or would like to visit the dredge site, please let us know.

Very truly yours,

PARKER LAFARGE INC.



J. B. Moran
Vice President

cc: Captain Jack Roberts
Houston International Terminal



November 5, 1993

Ms. Jane M. Boslet, Biologist
U. S. Army Corps of Engineers
Galveston District
Regulatory Branch, Evaluation Sec.
P. O. Box 1229
Galveston, TX 77553-1229

Re: Permit No. 19284

Dear Ms. Boslet:

As described to you in our letter of September 2, 1993, we have been conducting a pilot dredging operation in conjunction with the referenced permit, to determine the feasibility to dredge sand for commercial purposes.

This letter is to advise you that we have completed the initial phase of this operation, and have relocated the Dredge Echo II to our waterfront facilities at Turkey Bend Island on Buffalo Bayou.

Following our evaluation of the pilot dredging operations, we will formalize our amendment through the mitigation plan and submit it to your office for approval.

During the pilot dredging operations, we removed approximately 7,800 tons of sand.

If you have any questions regarding this matter, please let us know.

Very truly yours,

PARKER LAFARGE INC.



John R. Moran
Vice President

cc: Captain Jack Roberts
Houston International Terminal

05 DEC 1995



HOUSTON INTERNATIONAL TERMINAL

18001 -- 1-10
CHANNELVIEW, TEXAS

REPLY TO:
2918 GREEN TEE DRIVE
PEARLAND, TEXAS 77581
713 / 485-2464

November 29, 1995

Department of Army
Galveston District Corps of Engineers

FAX No. 409/766-3905

Attention: Mr. Bruce Bennett
North Evaluation Section

Subject: Permit No. 19284
Dated 11 May 1992

Dear Sir:

The above permit was issued as stated but no activity has been performed for the following reasons:

- A. Parker-Laforge who we had negotiated to perform the dredging closed down their dredging department.
- B. Mr. John Moran, then Vice-President of Parker-Laforge, was fired. He was our main contact and performed negotiations, met with Galveston Bay Foundation and basically engineered the joint project.
- C. Knowledge of how to equipment and total funds are not had by Houston International Terminal.

We now have another contractor who wants to enter into this venture with us, commencing early 1996.

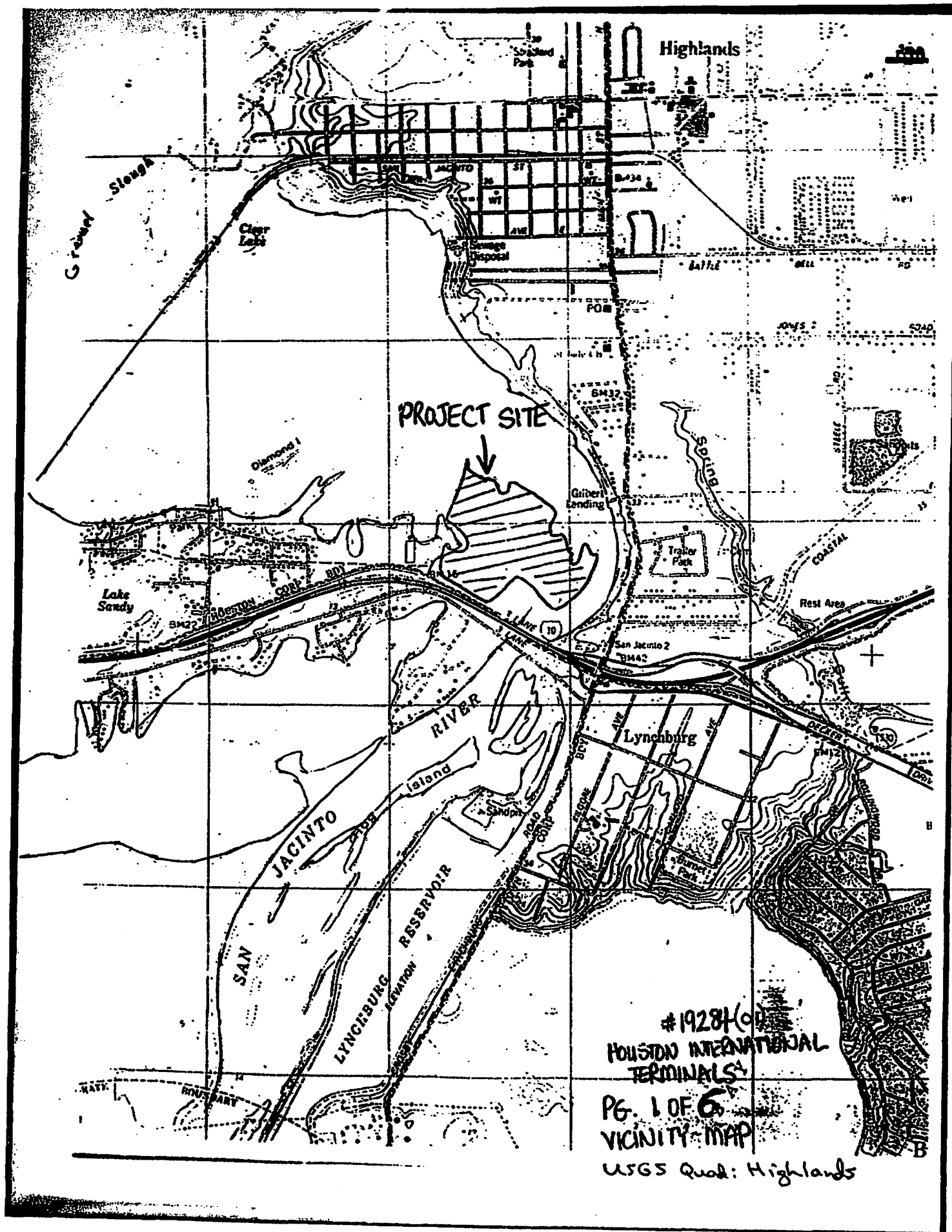
The permit expires December 1995 and we respectfully request that an extension be granted. The writer discussed this with Ms. Jane Boslet who advised that this letter would be the appropriate means to obtain this extension.

Thank you for your usual prompt attention to this matter, remain with

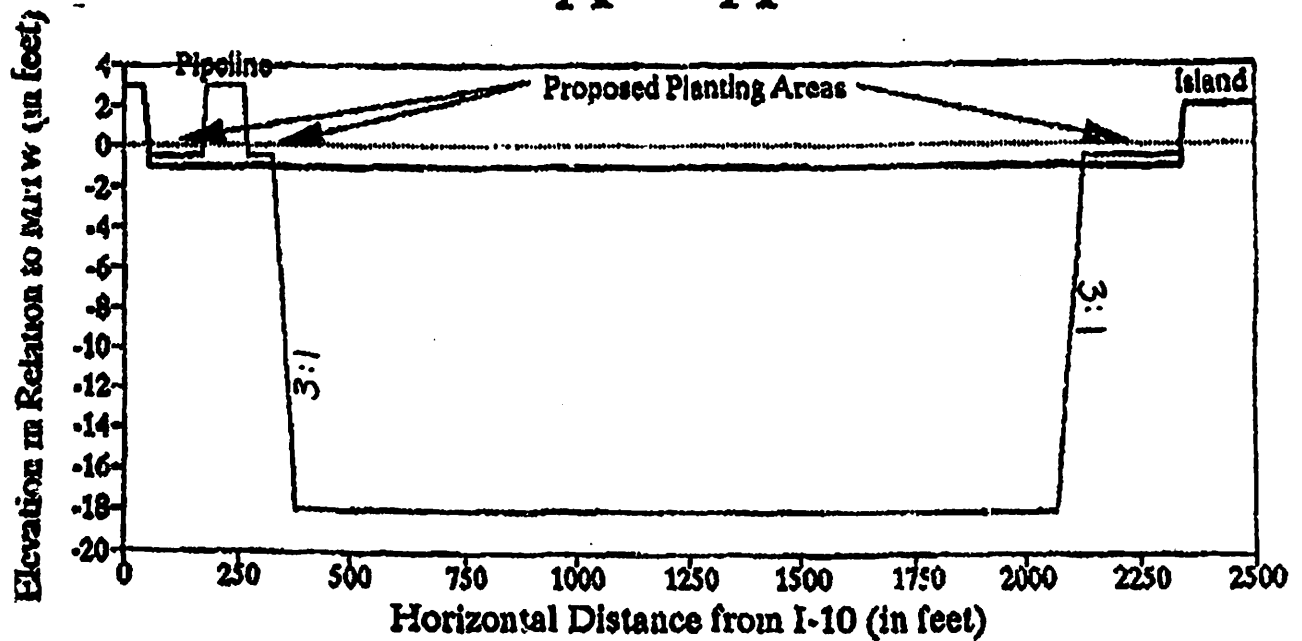
Respects,

Capt. Jack Roberts

JR:hr



Cross Section of Dredged Area A --- A



SLOPES = 3:1

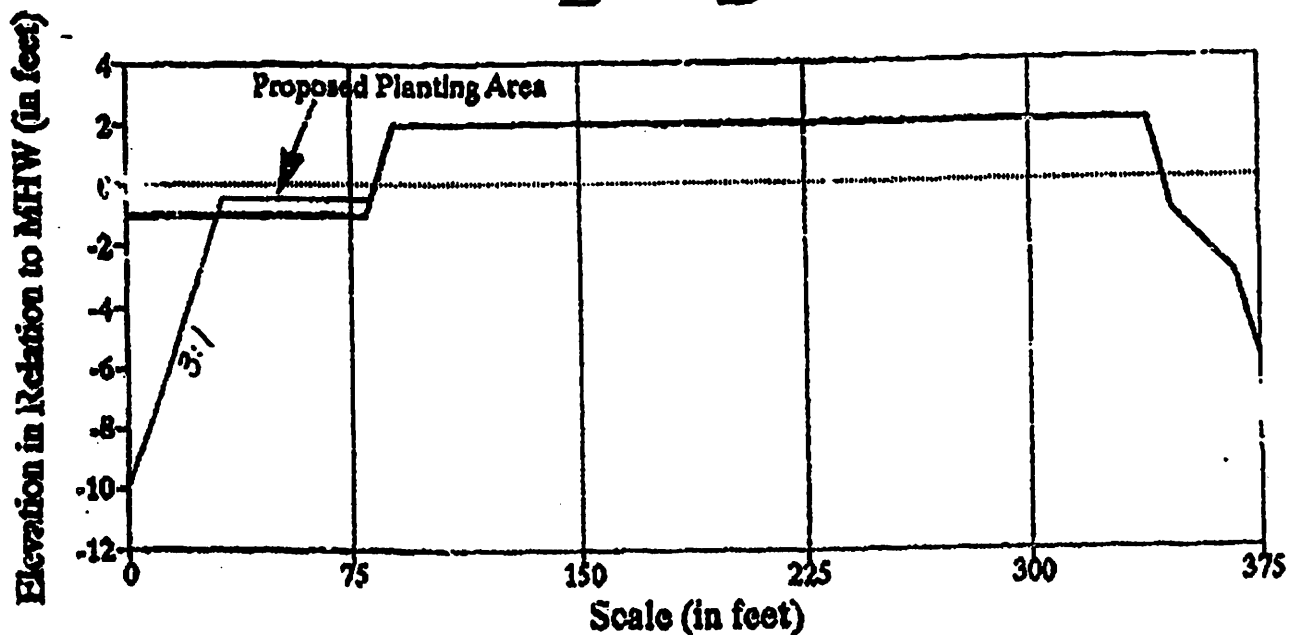
— Proposed Contour — Existing Contour

Cross-section A --- A of proposed mitigation

19284(01)
HOUSTON INTERNATIONAL
TERMINALS

PG. 3 OF 5

Cross Section of Planting Area B --- B



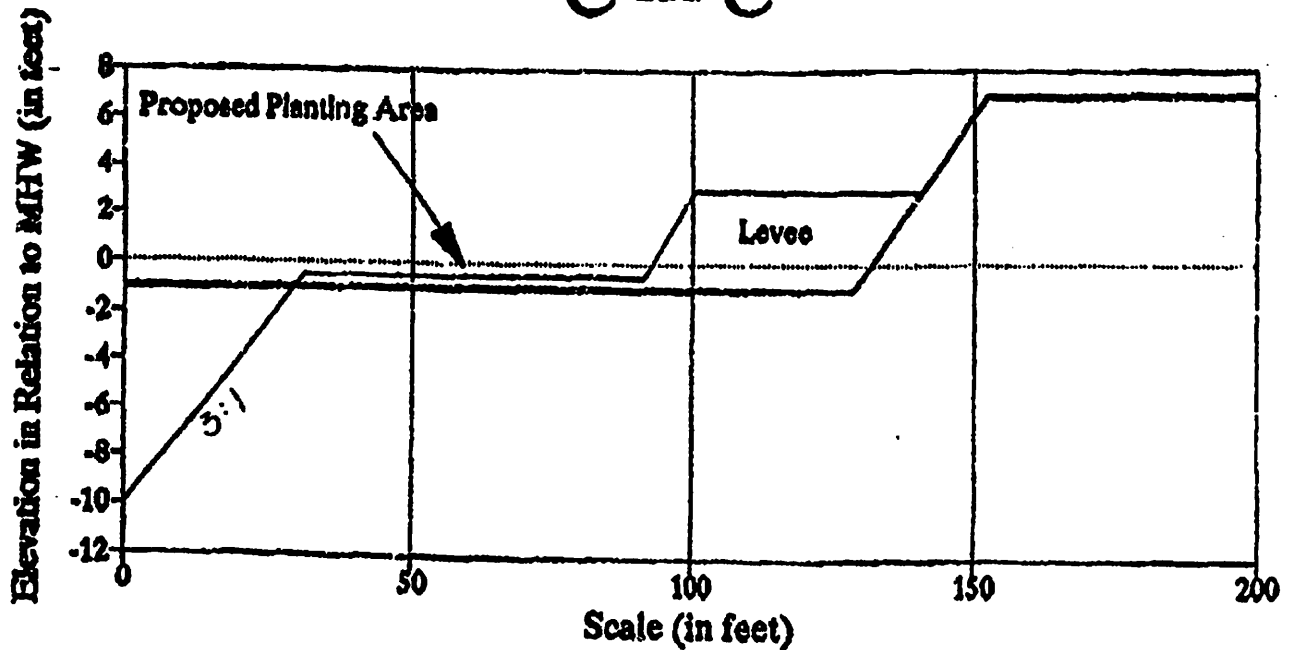
SLOPES = 3:1

— Proposed Contour — Existing Contour

Cross-section B --- B of proposed mitigation

#A284(01)
HOUSTON INTERNATIONAL
TERMINALS
PG. 4 OF 6

Cross Section of Planting Area C --- C



SLOPES = 3:1

— Proposed Contour — Existing Contour

Cross-section C --- C of proposed mitigation

#19284(01)
HOUSTON INTERNATIONAL
TERMINALS
Pg. 5 of 6

**Addendum to Conceptual Mitigation Plan Prepared for
Houston International Terminal**

In the course of the permit evaluation, several parties — such as the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the Galveston Bay Foundation — expressed concerns about the proposed mitigation. In order to address these concerns, Houston International Terminal (the Applicant) proposes to plant the areas of suitable elevation referenced in the mitigation plan (approximately 15.2 acres) with Smooth Cordgrass, *Spartina alterniflora*.

The planting will be performed in four phases (Figure 3) as the dredging progresses. The first phase would consist of planting approximately 4.3 acres, and would begin between March 15 and May 31 of the first year following initiation of dredging operations. The remaining three phases (5.1 acres, 3.2 acres, and 2.6 acres, respectively) would occur over the 7 to 10 year life of the project. Since the commercial demand for sand will dictate the rate at which dredging occurs, a definite timetable cannot be guaranteed for phases 2, 3, and 4, although the March 15 to May 31 window will be adhered to whenever planting occurs.

Per the U.S. Fish and Wildlife Service's June 11, 1991, and the National Marine Fisheries Service's June 18, 1991, comment letters, the Smooth Cordgrass will be planted on three-foot centers. The areas to be planted will be leveled at -0.5 feet MHW. Each planting unit will consist of a single plug containing one to four stems.

To avoid damage to the marsh where the transplants will be acquired, no more than one six-inch plug of source material per one square yard will be obtained. In addition, the Applicant will, to the greatest extent practicable, access the source material in the borrow marsh in a manner that does not destroy or lower the ground elevation of the marsh. Although the Applicant would be willing to replant any areas with less than 70 percent survival through normal mortality after a one year period, this would not include mortality as a result of oil or chemical spills, boat traffic, hurricanes, or similar events beyond the Applicant's control.

In addition, the proposed mitigation will be dependent upon whether or not there is sufficient sand to be commercially feasible. In this regard, once the permit is issued, a minimal pilot dredging operation will be conducted in order to make this determination. If it is determined that there is insufficient sand to proceed, no additional dredging will occur and the Applicant will not be bound to initiate or complete the mitigation.

According to the Galveston Bay Foundation's March 1, 1991, comment letter, they plan to continue cordgrass planting in the project area for at least four more years. The Applicant will be willing to cooperate with the Foundation in this endeavor if the dredging project is feasible. Houston International Terminal believes the proposed mitigation will greatly improve the habitat diversity of the area, and is more than adequate compensation for the shallow water habitat that will be lost as a result of the proposed dredging activity.

#19284(01)
HOUSTON INTERNATIONAL
TERMINALS
PG. 6 OF 6

MASTER 7678P

CULTURAL RESOURCE
COORDINATION FORM

1. Public Notice/Letter of Coordination PERMIT NUMBER: 19234(01)(199501901)

APPLICANT: Houston International Terminal

2. General Permit/Nationwide DATE: 30 Nov 95

3. Section 10/Section 404

4. Project Location: USGS topographic map reference: Highlands

County: Harris Water Body: San Jacinto River

5. UTM Coordinates Zone: 15 Easting: 300500 Northing: 3298000

State Tracts: _____

6. Project Description:

Activity: EOT for dredging

Approximate Size of Permit Area: 184 ac.

7. Additional Comments: _____

8. Project Manager: [Signature] Extension: 6345

Staff Archeologist

1. Known Properties: _____ 41HR 26
_____ in the permit area.
_____ in immediate vicinity/similar topographic.

2. Recommended Action:
_____ ☒ No Action
_____ ☐ Survey/Assessment
_____ ☐ Avoidance

3. Responsibility: _____ COE _____ Applicant

4. Public Notice Statement: A B C D (E) F G H I

5. Staff Archeologist: B. Guevara Extension: 3695

6. Date of Return to Project Manager: 1 December 1995

7. Comments: Key Review (1994) re permit # 19284



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

December 21, 1995

Evaluation Section

SUBJECT: Permit No. 19284(01); Extension of Time

FILE COPY


Captain Jack Roberts
-Houston International Terminal
2918 Green Tee Drive
Pearland, Texas 77581

Dear Captain Roberts:

Your November 29, 1995, request to extend the time to complete your project is approved. The time for completing the approved work is extended to December 31, 1999.

All conditions of the permit remain in full force and effect.

FOR THE DISTRICT ENGINEER:


Bruce H. Bennett
Leader, North Evaluation Unit

Copies Furnished:

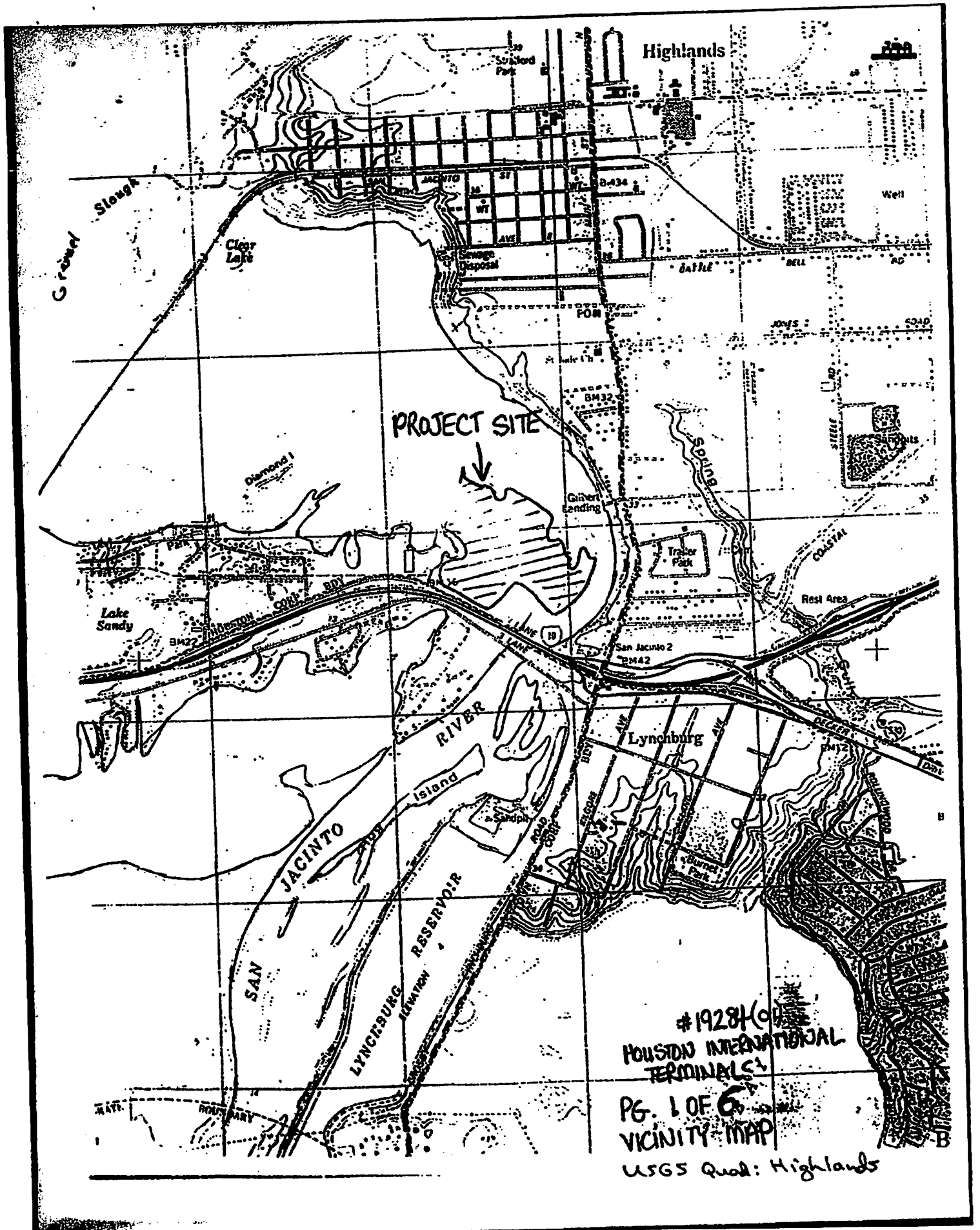
Eighth Coast Guard District, New Orleans, LA

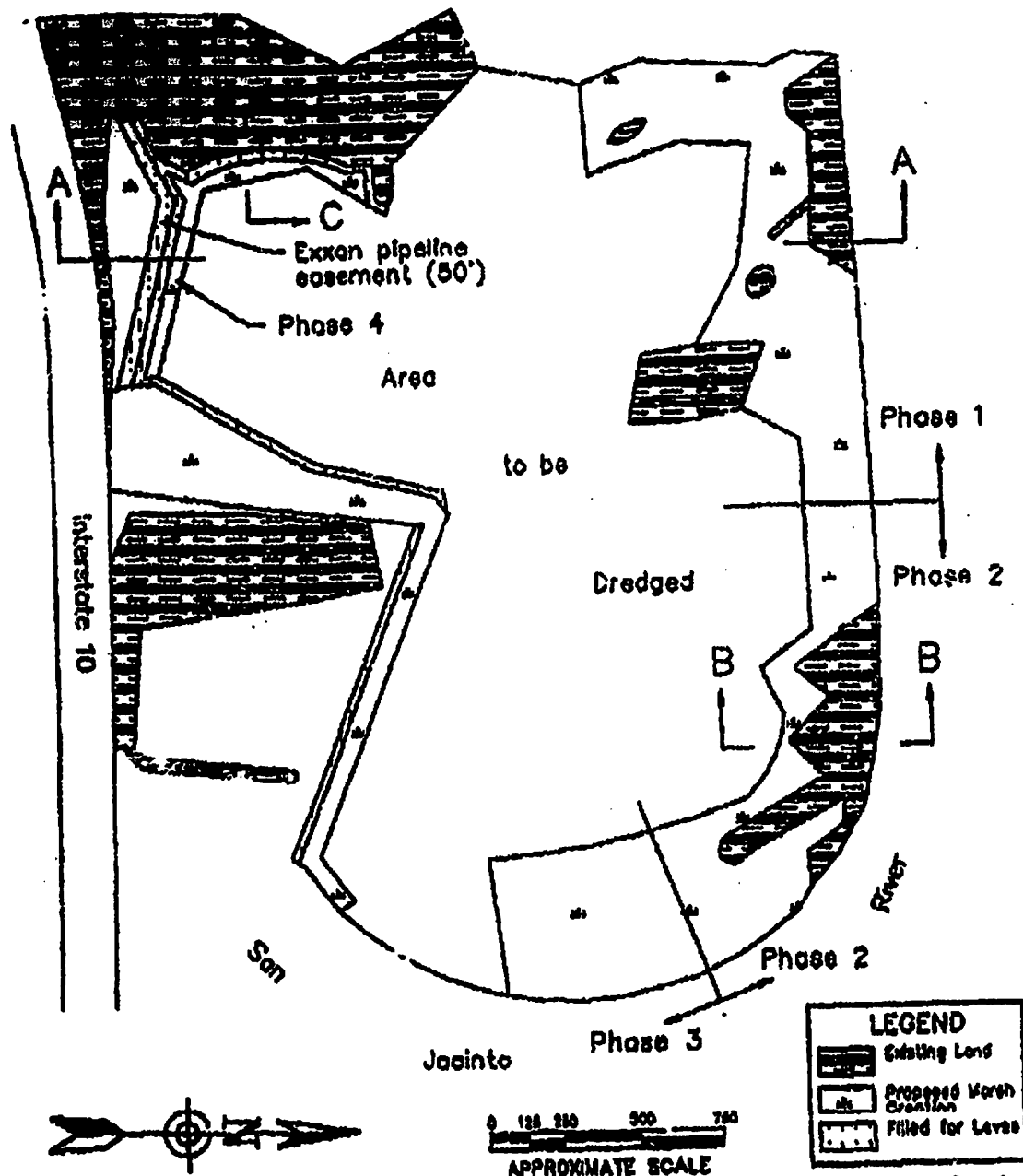
NOAA/NOS, Coast & Geodetic Survey, Silver Spring, MD

Texas General Land Office, Austin, TX

Texas General Land Office, La Porte, TX

Area Engineer, Northern Area Office, Galveston, TX



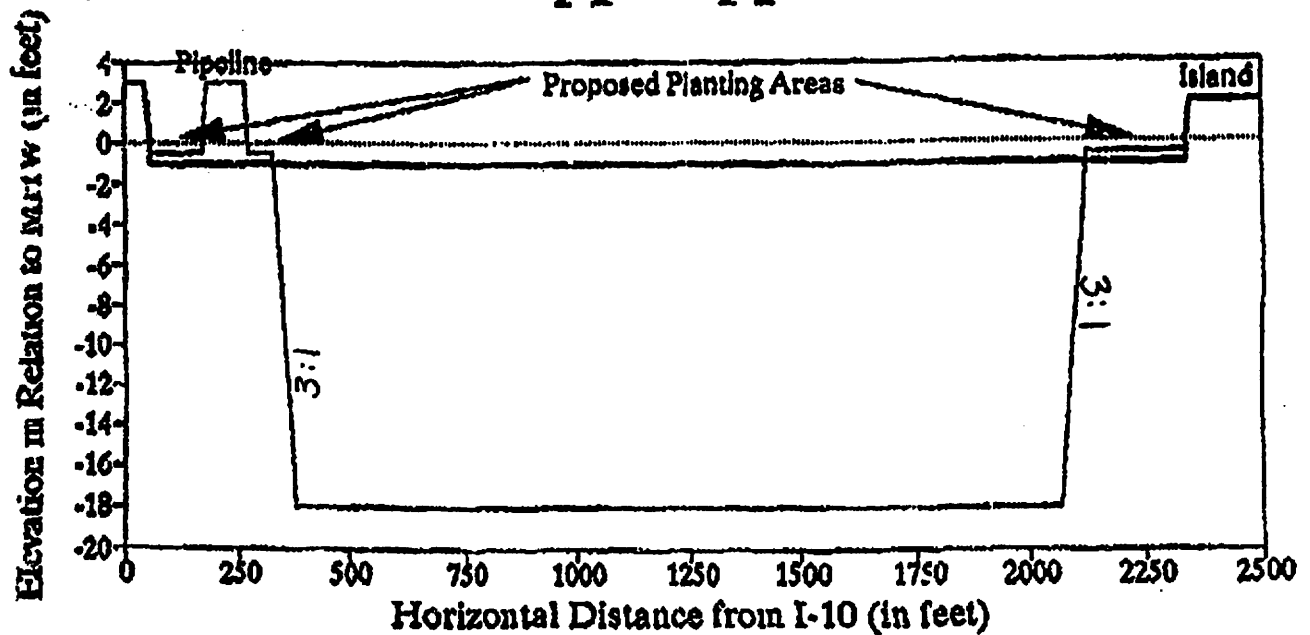


NOTES: ① ALL SLOPES AROUND PERIMETER OF DREDGING
Plan view of proposed mitigation WILL BE 3:1

② ALL PLANTED AREAS WILL BE
PROTECTED BY "CAGING"
OR FENCING.

19284(01)
HOUSTON
INTERNATIONAL TERMINAL
PG. 2 OF 5

Cross Section of Dredged Area A --- A



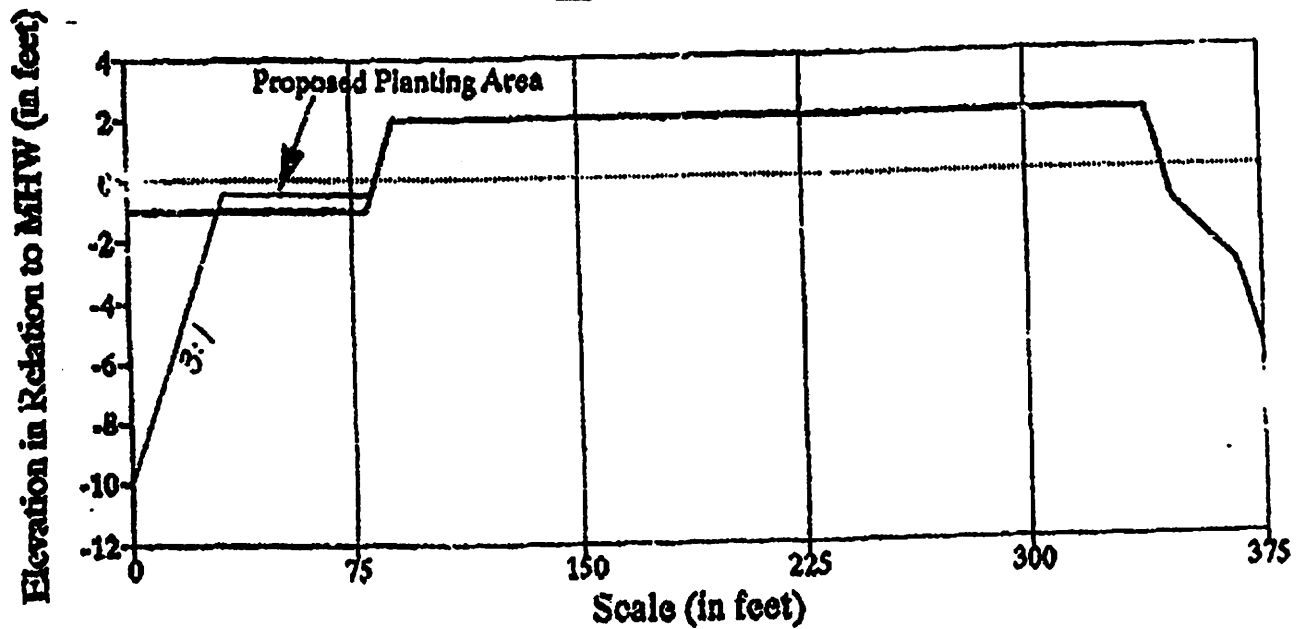
SLOPES = 3:1

— Proposed Contour — Existing Contour

Cross-section A --- A of proposed mitigation

19284(01)
HOUSTON INTERNATIONAL
TERMINALS
PG. 3 OF 5

Cross Section of Planting Area B --- B



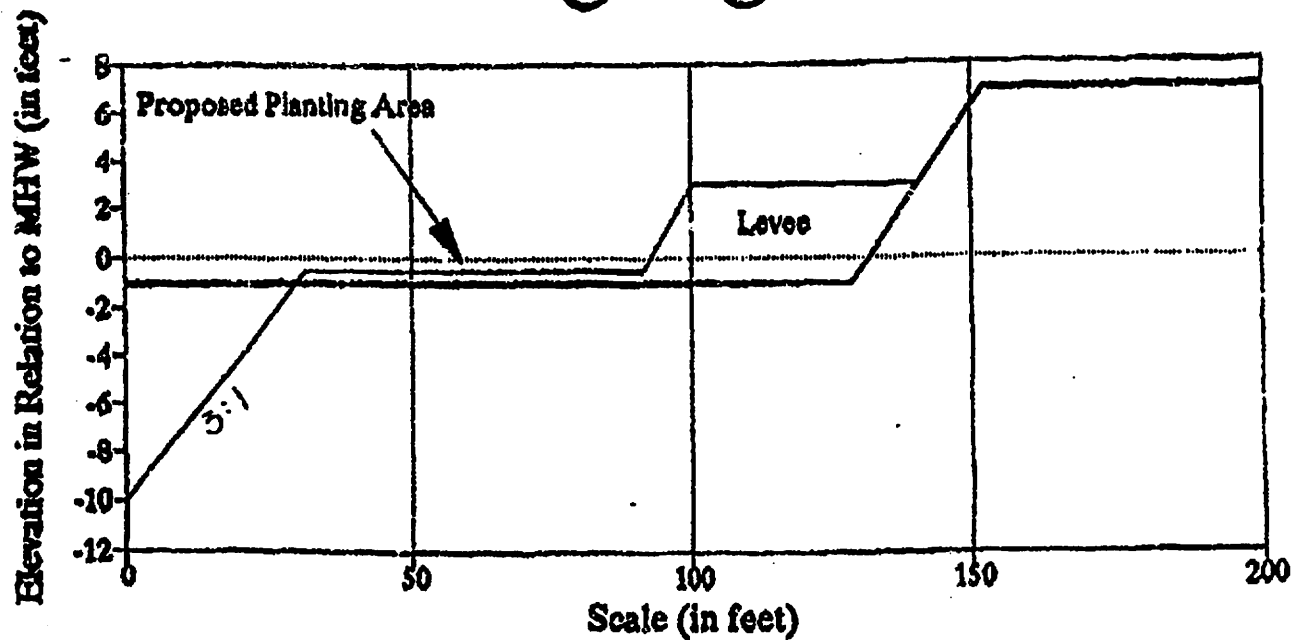
SLOPES = 3:1

— Proposed Contour — Existing Contour

Cross-section B --- B of proposed mitigation

#19284(01)
HOUSTON INTERNATIONAL
TERMINALS
PG. 4 OF 6

Cross Section of Planting Area C --- C



SLOPES = 3:1

— Proposed Contour - - - Existing Contour

Cross-section C --- C of proposed mitigation

#19284(01)
HOUSTON INTERNATIONAL
TERMINALS
Pg. 5 OF 6

**Addendum to Conceptual Mitigation Plan Prepared for
Houston International Terminal**

In the course of the permit evaluation, several parties — such as the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the Galveston Bay Foundation — expressed concerns about the proposed mitigation. In order to address these concerns, Houston International Terminal (the Applicant) proposes to plant the areas of suitable elevation referenced in the mitigation plan (approximately 15.2 acres) with Smooth Cordgrass, *Spartina alterniflora*.

The planting will be performed in four phases (Figure 3) as the dredging progresses. The first phase would consist of planting approximately 4.3 acres, and would begin between March 15 and May 31 of the first year following initiation of dredging operations. The remaining three phases (5.1 acres, 3.2 acres, and 2.6 acres, respectively) would occur over the 7 to 10 year life of the project. Since the commercial demand for sand will dictate the rate at which dredging occurs, a definite timetable cannot be guaranteed for phases 2, 3, and 4, although the March 15 to May 31 window will be adhered to whenever planting occurs.

Per the U.S. Fish and Wildlife Service's June 11, 1991, and the National Marine Fisheries Service's June 18, 1991, comment letters, the Smooth Cordgrass will be planted on three-foot centers. The areas to be planted will be leveled at -0.5 feet MHW. Each planting unit will consist of a single plug containing one to four stems.

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In addition, the proposed mitigation will be dependent upon whether or not there is sufficient sand to be commercially feasible. In this regard, once the permit is issued, a minimal pilot dredging operation will be conducted in order to make this determination. If it is determined that there is insufficient sand to proceed, no additional dredging will occur and the Applicant will not be bound to initiate or complete the mitigation.

According to the Galveston Bay Foundation's March 1, 1991, comment letter, they plan to continue cordgrass planting in the project area for at least four more years. The Applicant will be willing to cooperate with the Foundation in this endeavor if the dredging project is feasible. Houston International Terminal believes the proposed mitigation will greatly improve the habitat diversity of the area, and is more than adequate compensation for the shallow water habitat that will be lost as a result of the proposed dredging activity.

#19284601
HOUSTON INTERNATIONAL
TERMINALS
Pg. 6 of 6

ENVIRONMENTAL ASSESSMENT
AND
STATEMENT OF FINDINGS

1. Name and Address of Applicant.

Houston International Terminal
18001 Interstate Highway 10 East
Channelview, Texas

2. Corps Authority. This document addresses the impacts of the proposed project as it pertains to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), which applies to the performance of work in or affecting navigable waters of the United States and Section 404 of the Clean Water Act (33 U.S.C. 1344), which applies to discharges of dredged and/or fill material into waters of the United States.

3. Project Site and Description. The applicant is requesting a 3-year extension of time to complete the project authorized under Department of the Army Permit Number 19284. This includes dredging of sand for commercial sale and the creation of a barge berthing area. In addition, the applicant will create approximately 15.2 acres of smooth cordgrass wetlands as mitigation. The project site is located in the San Jacinto River, along the south bank, north of the Interstate Highway 10 bridge in Channelview, Harris County, Texas.

4. Environmental Impacts. The possible consequences of this project were studied for environmental concerns, social well-being and the public interests in accordance with regulations published in 33 C.F.R. 320-330. Factors bearing on our review include: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people. An extension of time will be granted unless its approval is found to be contrary to the public interest.

5. Coordination. The documents and factors concerning this application were reviewed and evaluated in light of the overall public interest. It was determined that there have been no significant changes in the attendant circumstances since the authorization was issued, and that the work will proceed essentially in accordance with the approved plans and conditions. Therefore, a public notice was not required according to 33 C.F.R. 325.6(d).

The application was verbally coordinated with Federal and State resource agencies at a Permit Processing Meeting on 6 December 1995. No further coordination was requested by any of the agencies. The amendment was coordinated with a Staff Archeologist on 1 December 1995. No further actions were required.

6. **Other Considerations.** There have been no significant adverse environmental effects identified in relation to the project. The impact of the activity on the quality of the environment has been evaluated, and it is determined that this action does not require an environmental impact statement.

7. **Conclusion.** The decision to extend this permit, as prescribed by regulations published in 33 C.F.R. 320-330 is consonant with National policy statutes and administrative directives. On balance, extending the time for completion of work under Department of the Army Permit- 19284 is not contrary to the public interest.

FOR THE COMMANDER:

20 Dec 95
(date)


KERRY M. STANLEY
Regulatory Specialist, North
Evaluation Unit

PERMIT APPLICATION # / ACTION ID: 19284(01)

CONVERSATION RECORD

Time: 1000 Date: 6 Dec 95

TYPE: Visit ☒ Conference Telephone
incoming outgoing

If conference/or visit location of occurrence: Room 268, Jadwin Building, Galveston

NAME OF PERSON(S) CONTACTED OR IN CONTACT WITH YOU: _____

ORGANIZATION: JEM TELEPHONE # _____

SUBJECT: Verbal No Objection

SUMMARY: I explained the proposed project. All agencies offered a verbal no objection. Agency reps included:

Rusty Swafford - NMFS,
Mark - NMFS,
Andy Sipocz - TPWD, and
Doug Meyers - GLO.

NAME OF PERSON DOCUMENTING CONVERSATION: Kerry M. Stanley

Congress of the United States
House of Representatives
Washington, DC 20515-4325
March 14, 1996

126 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4325
(202) 225-7508
(202) 225-2947 FAX

DISTRICT OFFICES:
515 RUSK
SUITE 12102
HOUSTON, TX 77002
(713) 229-2244
(713) 229-7823 FAX

1001 E. SOUTHMORE
SUITE 810
PASADENA, TX 77502
(713) 473-4334
(713) 475-8887 FAX

13301 E. FREEWAY, SUITE 106
HOUSTON, TX 77015
(713) 453-2525

2440 TEXAS PARKWAY
SUITE 290-E
MISSOURI CITY, TX 77489
(713) 281-5450

Col. Robert B. Gatlin
Chief, Galveston District
U.S. Army Corps Of Engineers
2000 Fort Point Road
Post Office Box 1229
Galveston, Texas 77553

19284(01)

Dear Col. Gatlin:

I am writing on behalf of a constituent, Ms. Patsy Goss, of Channelview, Texas who is concerned about a permit renewal that was recently issued to the Houston International Terminal to remove sand for commercial sale from the lower San Jacinto River.

Ms. Goss and the San Jacinto River Association have expressed concerns regarding the removal of these materials and the potential negative impact on the San Jacinto River. I respectfully request that the Corps of Engineers address the issues raised in Ms. Goss letter and provide me with an explanation for this permit renewal. I have enclosed a copy of Ms. Goss' letter for your review.

Thank you for your careful consideration of this matter. If I may be of further assistance on this or any other matter, please do not hesitate to contact me or Meredith Grabois in my Washington office.

With kindest personal regards,

Sincerely,


Kenneth E. Bentsen, Jr.
Member of Congress

KEB:mg

SAN JACINTO RIVER ASSOCIATION

P. O. Box 2208
Channelview, TX 77530
Phone 713-457-5937

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Congressman Gene Green
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State Representative Fred Bosse

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Dr. Jim Bonner
Texas A & M

March 2, 1996

The Honorable Ken Bentsen
U.S. Congress

Dear Congressman Bentsen:

The San Jacinto River Association needs your assistance in regard to the renewal of a 1992 permit (#19284 and Amendment (01) to remove sand for commercial sale from the lower San Jacinto River by the Houston International Terminal. The U.S. Corps of Engineers renewed this permit which is disguised as a navigational removal of sand for creating a barge berthing area near the I-10 bridge. There are several reasons why this dredging operation should be stopped.

- a) Exxon has a major pipeline running across the river right at the I-10 bridge; Exxon opposed this permit back in 1992. After ruptures of numerous pipelines crossing this river in the 1994 flood creating fires and spilled-fuel damage to the river, SJRA is particularly eager to avoid another pipeline rupture.
- b) Old chemical waste dumps on private property are a part of this project site. These pits, full of a variety of dangerous chemicals, are now submerged due to earlier dredging and subsidence. SJRA is concerned that removal of sand will re-suspend these buried toxins into the river, endangering human, bird, and aquatic life.
- c) A million dollar Texas General Land Office-funded bioremediation project directed by Dr. Jim Bonner of Texas A&M is located immediately adjacent to the project site. This GLO project may well be jeopardized by commercial sand removal with its well-documented impact on adjacent property. This project was located in our river because of the 1994 flood--"a spill of opportunity"--permitting the scientific study of natural bioremediation of an oil spill as well as ways to enhance recovery of a waterway from such spills.

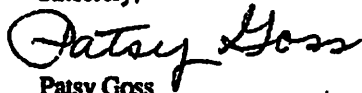
PRESERVE - PROTECT - DEFEND

- d) 1994's 100-year flood scoured the river bottom from the Lake Houston dam to the Houston Ship Channel, relocating vast quantities of sand. Any plans to dredge sand from this river drawn up in 1992 are no longer valid without a new study of the availability of sand or even the necessity, let alone desirability, of any sand removal at the project site.
- e) A federally funded EPA wetlands restoration project involving cord grass planting in conjunction with efforts of the Galveston Bay Foundation is located immediately adjacent to this dredging project. While this permit includes mitigation promised by the applicant involving similar cordgrass planting in fenced areas, such mitigation is a farce. One has only to observe the total failure of the EPA project before and after the 1994 flood to conclude that such futile attempts at wetlands restoration is merely a subterfuge to allow dredging projects to proceed. Whatever natural wetlands are left in this area will submerge faster from renewed dredging than any manmade "restoration" project can pretend to achieve.
- f) Increased traffic of tugboats pushing loaded sand-barges will be a hazard to recreational users of this river.
- g) Riparian property along the river up and downstream of this dredging operation are likely to experience significant property damage, such as the collapse of virtually all bulkheads and yards in the south Rio Villa subdivision in 1993-94 when the first commercial sand removal in this river in 20 years was permitted a quarter mile downstream of their homes. This dredger eventually agreed to abandon his permit and get out of the river to avoid lawsuits from these homeowners as well as continued opposition by the San Jacinto River Association before state and federal agencies.

Our association understands that this Houston Barge Terminal plans to sell sand to the same company which abandoned its own permit, declared bankruptcy, and reorganized under a new name to avoid further opposition to its own dredging in our river. This latest project is merely a back-door way to get commercial sand dredging back into this river, avoid state taxes, claiming the project will be on private property and for the purpose of barge berthing and navigation.

Thank you for any assistance you can give us in preventing this dredging operation from ever starting up in the San Jacinto River.

Sincerely,


Patsy Goss
Secretary



**DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229**

GALVESTON, TEXAS 77553-1229

March 26, 1996

REPLY TO
ATTENTION OF

Executive Office

SUBJECT: Permit 19284(01); Commercial Sand Dredging Project; San Jacinto River, Channelview, Harris County, Texas

**Honorable Kenneth E. Bentsen, Jr.
Representative in Congress
515 Rusk, Suite 12102
Houston, Texas 77002**

Dear Mr. Bentsen:

This is regarding your March 14, 1996, inquiry on behalf of Ms. Patsy Goss and the San Jacinto River Association. Ms. Goss expressed her concerns over a commercial sand dredging project in the San Jacinto River.

We issued Houston International Terminal (HIT) a permit (number 19284) on May 11, 1992, which authorized the dredging of an area for obtaining sand for commercial sale and creation of a barge berthing area. As mitigation for environmental impacts, HIT must create a smooth cordgrass marsh area and fence it from predators. The project site is located in the San Jacinto River, along the south bank, immediately north of the Interstate Highway 10 bridge. Although the project is in navigable waters, the property is owned by HIT. Amendment 19284(01), issued on December 21, 1995, extended the time to complete the project until December 31, 1999. A request to modify the mitigation plan was received on March 15, 1996 and is currently being reviewed. This modification proposal will be reviewed by public notice. I will specifically provide a copy to Ms. Goss and you for your comment.

The following information is in response to each of Ms. Goss' points of concern. Six Exxon pipelines are located between the area being dredged and I-10. During the original permit evaluation, the dredging contractor guaranteed that they would remain completely out of all pipeline easements. In addition, on October 24, 1994, we issued two permits authorizing Exxon to lower these pipelines to a depth of 60 feet below the existing bottom of the river and relocate the pipelines closer to I-10. This lowering and relocating of these pipelines has further removed them from the dredging area.

The area to be dredged is below the water level of the San Jacinto River and we have no information indicating that this area has ever been utilized as a dump for chemical waste. In addition, on November 6, 1991, the Texas Water Commission (currently The Texas Natural Resource Conservation Commission) certified that this project would not cause a violation of established Texas Water Quality Standards.

The initial application was placed on public notice during the original permit evaluation. The Texas General Land Office received a copy of this public notice. They were aware of the nature and location of this commercial operation at least 2 years prior to the initiation of the bioremediation project. We have no reason to believe that these projects would not be compatible.

The applicant's studies have determined that a commercial sand dredging operation is feasible at this location. This indicates that there is sufficient desirable sand available to warrant such an operation.

The current permit requires the applicant to construct 15.2 acres of smooth cordgrass marsh to mitigate for the impacts. We are currently reviewing the proposed modification to the mitigation plan. This modification would consist of reducing the size of the mitigation area and relocating it in a more protected area. The applicant has proposed this modification because the October 1994 flood indicated that the permitted location may not have long term success.

This area of the river is currently utilized by commercial traffic. Recreational users of the river accommodate this traffic. The extension of this project will not significantly increase the number of commercial vessels in the area.

During the initial review of this permit, only one public comment was received expressing concerns regarding erosion of the adjacent shoreline. Based on this comment, the permit plans were modified to require all slopes in the dredging area to be on a 3:1 grade. This is considered sufficient to prevent the dredging from having an effect on the surrounding shorelines. The permit was reviewed extensively during the initial permit evaluation and all concerns were addressed or alleviated. The recent extension of time was granted to the permittee after a review by interested state and Federal resource agencies and ourselves. This is consistent with our regulations concerning extension of permits. The project has not changed since the original evaluation.

for
STANLEY, GWH/6345
CESWG-CO-RE

BIB 25 Mar 96
BENNETT
CESWG-CO-RE

out
NANNINGA
CESWG-CO-RE

I hope this will provide sufficient information to respond to your constituent. If I can be of further assistance, please call me at 409-766-3001.

Sincerely,

Robert B. Gatlin
Colonel, Corps of Engineers
District Engineer

for B.B. Gatlin
DE LA ROSA
CESWG-CO-R

JEB 3/25/96
JARRELL
CESWG-CO

Enclosures

Copy Furnished:

Honorable Kenneth E. Bentsen, Jr.
House of Representatives
Washington, D.C. 20515-4925

THM
MOORE
CESWG-OC

CF w/encls:

CECW-ZS
CESWD-PA
CESWG-DD
CESWG-CO-R

2/22 3/25/96
ROCHEN
CESWG-DP

out
GONZALEZ
CESWG-DD

RA
GATLIN
CESWG-DE

RETURN TO
CESWG-CO-RE

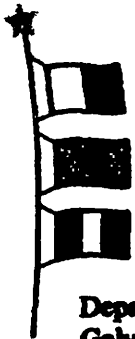
SUBJECT NAME		27 Mar 96 SUSPENSE DATE	96-008	
		DATE	TYPE	
		18 Mar 96		
FROM		P.E. DESIGNATION		
Ms. Patsy Goss				
SUMMARY				
Permit # 19284 and Amendment (01)				
TO	TO	TO	TO	TO
CECW-ZS	CO-R	CO-R	Mail	
DATE	DATE	DATE	DATE	DATE
18 Mar 96			3/26/96	
REPLIED OR INDORSED TO		FILED (Place)		OTHER ACTION

DA FORM 3446, JAN 84

EDITION OF JUN 79 WILL BE USED

CORRESPONDENCE
CONTROL RECORD

NOV 30 1998



HOUSTON INTERNATIONAL TERMINAL

November 20, 1998

18001 - 1-10
CHANNELVIEW TEXAS
REPLY TO
2918 GREEN TEE DRIVE
PEARLAND, TEXAS 77561
1-800-425-2464
251

Department of the Army
Galveston District
Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Attention: Mr. John Davidson

Re: Permit No. 19284(02)

Dear Sir:

This letter will confirm my past telephone conversations and your personal conversations with Mr. D. Moore of Mega Sand at Houston International Terminal. At this time we would like to reiterate our position which is as follows:

The original permit was issued after much discussion during conferences and meetings with Parker Brothers. As you know Parker merged to form Parker LaFarge which set back our operations by at least a year. Only one(1) barge load was removed by Parker LaFarge.

Parker LaFarge sold out and the new owners closed down the dredging operations and sold off all of their floating equipment.

All of this was done after a mitigation plan was submitted and approved. We were into 1996, and no further dredging was performed during this period.

In late 1997 we entered into a working contract with Mega Sand (Dan & Brenda Moore) who agreed to the mitigation plan. In September 1997 dredging recommenced and work on the mitigation plan started. Work progressed, but has been halted on several occasions by floods and bad weather. In the case of floods, the most recent being November 13, 14, and 15, 1998, the flood waters and currents have caused the removal of some of the material deposited in the mitigation sites.

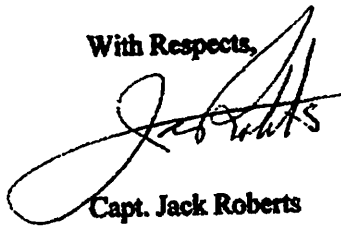
We will keep Ms. L. Shead advised of the progress, in order that she may advise the Galveston Bay Foundation.

Letter to [illegible]
July 28, 1996
Page 2

We are writing at this time to assure the Corps and the Galveston Bay Foundation that our plans have not changed, and if weather permits will continue on course.

Thanking you for your continuing cooperation, we remain,

With Respects,



Capt. Jack Roberts

cc: Mega Sand
Encl. Letter dated 7-30-96
To U.S. Corps / John Moran

JAN 25 2000



18001 - 1-10
CHANNELVIEW, TEXAS
REPLY TO:
2918 GREEN TREE DRIVE
PEARLAND, TEXAS 77581
800 / 485-2464

7281

January 24, 2000

United States Corps of Engineers
Galveston, Texas

Attention: Mr. Bruce H. Bennett

VIA Fax 409/766-3931

Re: Permit #19284(2)

Dear Bruce,

It has been a long time since I have been in contact with you or the Corps and after talking to Ms. Tirpak today was pleased to hear that you are well. I have partially retired and as a result may have slipped my anchor concerning the above referenced permit.

Situation:

We received a permit in 1996 to dredge our property, construct a fish nursery with Galveston Bay Foundation and submitted a mitigation plan which was approved.

No work was performed in 1996 and it was late 1997 before operation commenced. Site was inspected by you, Mr. John Davidson and we were contacted by him and the entire operation laid out (See letter dated November 20, 1998, attached).

At this time we respectfully request that this permit be renewed, extended or whatever is required to allow Mega Sand to continue their operation.

US Corps of Engineers

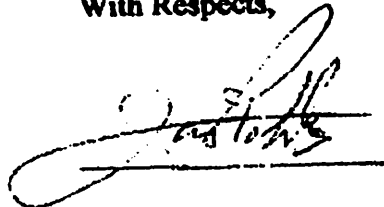
Page - 2 -

I was under the impression that permits for this type of operation was for five (5) years, but I understand ignorance is not an excuse. However the operation did not start until 9/97 and we suffered delays in 1998.

Upon receipt of this fax and after your review of our problems will you please contact me at 281/485-2464 or fax 281/485-0538.

Thanking you in advance for yours and the Corps usual prompt attention to this matter, remain,

With Respects,



Capt. Jack Roberts

JR:hr

Attachments

NOV 16 2004

Houston International Terminal
2435 East Broadway
Pearland, Texas 77581
281/485-2464
281/485-0538 fax
281-485-3468

November 11, 2004

Department of the Army
Galveston District Corps of Engineers
P. O. Box 1229
Galveston, Texas 77553-1229

Attention: Mr. Bruce Bennett
Permit Department

Re: Permit No. 19284 (3) Rev.

Dear Sir:

We are writing at this time to ask the Corps a favor of reviewing the file on the above referenced permit issued to Houston International Terminal. The reason for this request is that H.I.T. has been on an idle status for the past several years, no revenue coming in and at the present time we have an inquiry as to the possibility of entering into a royalty lease with a dredging/digging company.

We have reviewed our file and it appears that renewal of the permit has laid dormant for the past years as a result of:

A. When H.I.T. asked for original permits (1) & (2) to be renewed, there was an objection issued by Galveston Bay Foundation (GBF).

B. We met with Ms. Linda Shead, then director of GBF and the Corps representative (Ms. Tiebar, Mr. Starley, Ms. Remalay, Mr. Orr) all of which have seemed to moved on.

C. During these meetings we set up a mitigation plan (see copy attached)

D. Since the intent of H.I.T. is protect the land portion (finger extensions) into water and to prevent loss from the area along the feeder road which would allow access to the property by GBF.

E. H.I.T. commenced to grade the finger extensions, fill in the land (shore line) and project was approximately 60% complete when Ms. Sheed advised that GBF did not have the funds for the planting but would provide volunteer labor. During this period, GBF reported that nothing had been performed, which was incorrect, and indicated that an inspection had been made since we, on our own, planted several areas with vegetation (seeds/sprigs) as an experiment to give us a course to follow.

F. Because of the lack of permit and other reasons the lessor, Mega Sand Co. relocated their operations. This has been a result of (1) GBF change of requirements, (2) change of personnel by GBF/USCOB and possible the lack of attention of H.I.T.

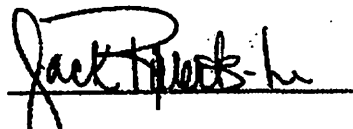
In conclusion let the writer give an opinion:

After owning this property since 1972, acting as a Marine Surveyor for the past 50 years in this area and have attempted to adhere to mitigation plans we find that we are "spitting into the wind". Finger extensions, approximately 25% have washed away. Vegetation planted has not germinated.

At this time we respectfully request that a review be made by the Corps and that we be advised as to what needs to be performed to obtain a dredge permit. As previously mentioned this is an important issue for H.I.T. so far as income and ask for your assistance.

Awaiting your response, remain,

With respects,


Capt. Jack Roberts

JR:hr

Enclosures

December 3, 2004

SUBJECT: Status of Permit 19284(03)

Captain Jack Roberts
Houston International Terminal
2435 Broadway Street
Pearland, Texas 77581-6407

Dear Captain Roberts:

In your November 11, 2004, letter, you requested to continue sand mining operations under Department of Army Permit Number 19284(03). The project is located in the San Jacinto River, along the south bank, north of the Interstate Highway 10 Bridge, in Channelview, Harris County, Texas.

Amendment (03) of the permit was issued on January 23, 2003, and extended the time for the continuation of sand mining operations until December 31, 2008. Therefore, you are still authorized to continue sand mining operations.

In addition to the extension of time, we modified your mitigation plan [Attachment 1 of the Amendment (03)] to allow for a dredging contractor to begin work at the project site and delayed the start of the mitigation site construction. To date, the mitigation site is not completed. The modified mitigation plan gave specific timelines of when the mitigation construction must be completed. The mitigation plan states under the section Wetland Development and Timelines Paragraph 4:

"Upon the occurrence that the applicant cannot find a dredging contractor who begins work in jurisdictional areas within 18 months, from the date of the re-authorization, the permittee must begin the mitigation time line (as described above) and proceed with the construction of the mitigation site. The day, 18 months from the date of the re-authorization, will be the "start of construction within jurisdictional areas" date for the purpose of the starting the mitigation timeline."

Since the mitigation area has not been constructed or completed, the "start of construction within critical areas" date is the authorization date, January 23, 2003. The mitigation plan must be completed with construction and planted within 24 months from the start of construction within critical areas. Although you are still authorized to perform sand dredging, you have until January 23, 2005 to complete your mitigation plan. It is important to perform the required mitigation within this timeline. I have enclosed a copy of the mitigation plan for your review.

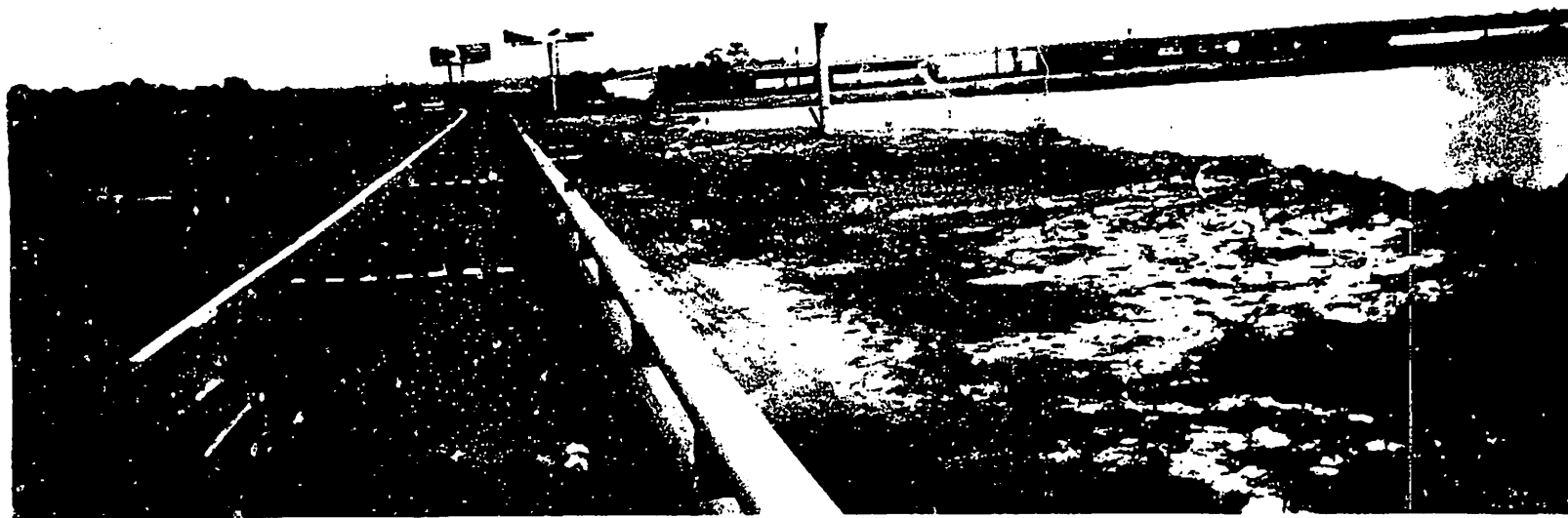
If you have any questions concerning this permit, please contact Ryan Fordyce at the letterhead address or by telephone at 409-766-3114.

Sincerely,

Bruce H. Bennett
Leader, North Evaluation Unit


BENNETT
CESWG-PE-RE

Enclosure





OCT 24 2007

2435 East Broadway
Pearland, Texas 77581
281/485-2464
713/828-4444 Cell
281/485-3468 Fax



October 19, 2007

Department of Army
P. O. Box 1229
Galveston, Texas 77553-1229

Attention: Mr. Bruce Bennett
Chief North Unit

Re: Permit No 19284
Dredge

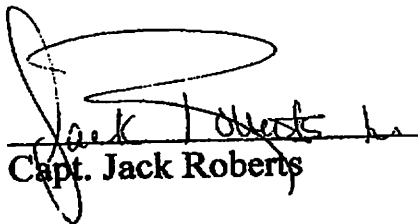
Dear Sir:

The letter will confirm our several conversations concerning above referenced subject and our desire to renew permit.

As you may be aware we have not dredged (removed) material for the past years, however the mitigation plan, previously submitted, is still in effect. We have no intentions to dredge as H.I.T. however the sand is a true asset for the sale of land.

Will you please review this file and contact the writer?

Respects,



Capt. Jack Roberts



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

December 27, 2007

REPLY TO
ATTENTION OF:

Evaluation Section

SUBJECT: Permit No. SWG-2007-1865; Extension of Time

Captain Jack Roberts
2435 Broadway Street
Pearland, Texas 77581-6407

Dear Capt. Roberts:

Your request, dated October 31, 2007, to amend Permit No. 19284(03) for an extension of time is approved pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. The permit site is located in the San Jacinto River, along the south bank, north of the Interstate Highway 10 Bridge, in Channelview, Harris County, Texas.

Permit No. 19284 was issued on May 11, 1992, and authorized dredging for sand for commercial sale and to create a barge berthing area. In addition, it required the creation of 15.2 acres of wetlands as compensatory mitigation for project impacts. Amendment (01) extended the time to complete the work until December 31, 1999. Amendment (02) reduced the required mitigation to 9.0 acres of created wetlands and modified the location of the mitigation site to better protect it from river flows. The previous mitigation site location was impacted by erosion and flooding. Amendment (03) extended the time to complete the authorized work until December 31, 2008.

All work is to be performed in accordance with the enclosed plans in 5 sheets, the Mitigation Plan, in 4 sheets, and the permit conditions, which remain in full force and effect, with the exception of the time limit for completion. This authorization expires on December 31, 2013.

Please notify the District Commander, in writing, upon completion of the authorized work. A pre-addressed postcard has been enclosed for your convenience.

FOR THE DISTRICT COMMANDER:

Janet Thomas Botelli
for
Bruce H. Bennett
Leader, North Evaluation Unit

Enclosures

Copies Furnished:
(See Page 2)

Copies Furnished:

Eighth Coast Guard District, New Orleans, LA

NOAA/NOS, Coast & Geodetic Survey, Silver Spring, MD

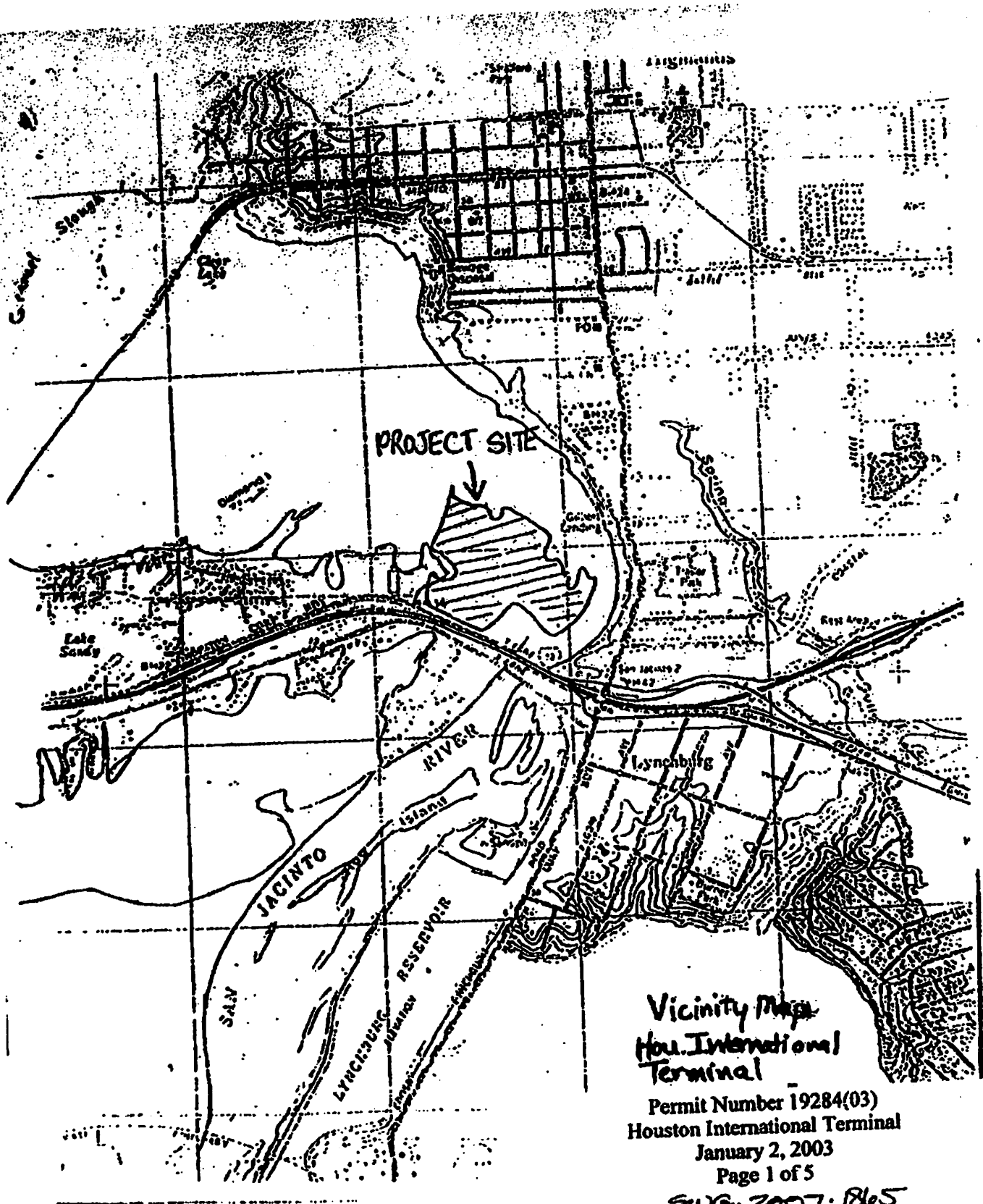
U.S. Fish and Wildlife Service, Houston, TX

Texas General Land Office, Austin, TX

Texas General Land Office, La Porte, TX

Northern Area Office, Galveston, TX

Houston Resident Office, Galveston, TX



Vicinity Map
Hou. International
Terminal

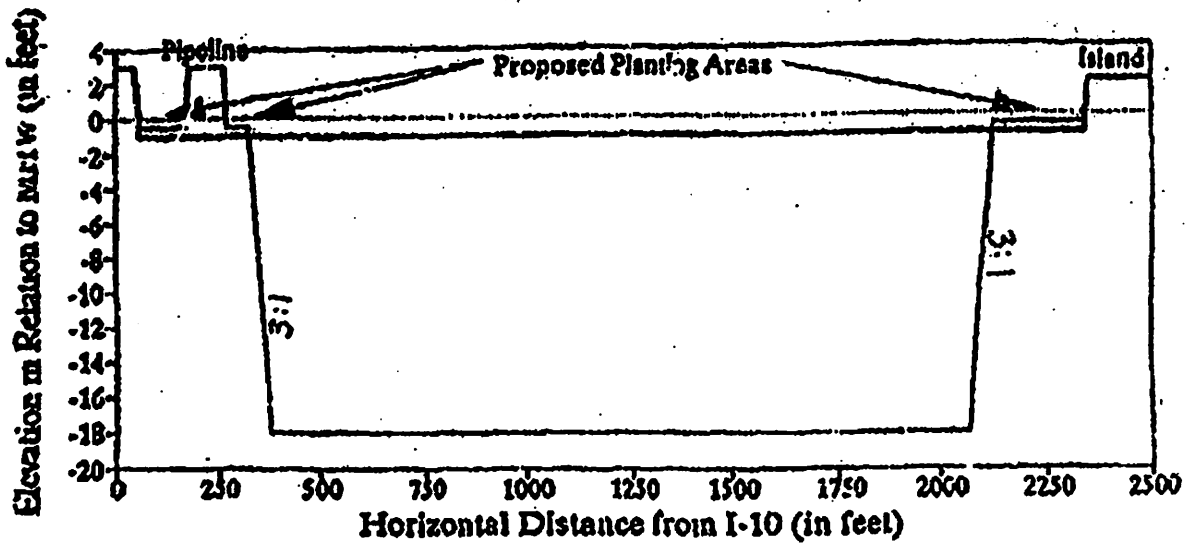
Permit Number 19284(03)
Houston International Terminal
January 2, 2003
Page 1 of 5

SWG-2007-1865

USGS Quad:
Highlands

PERMITTED PLANS

Cross Section of Dredged Area A --- A



SLOPES = 3:1

— Proposed Contour - - - Existing Contour

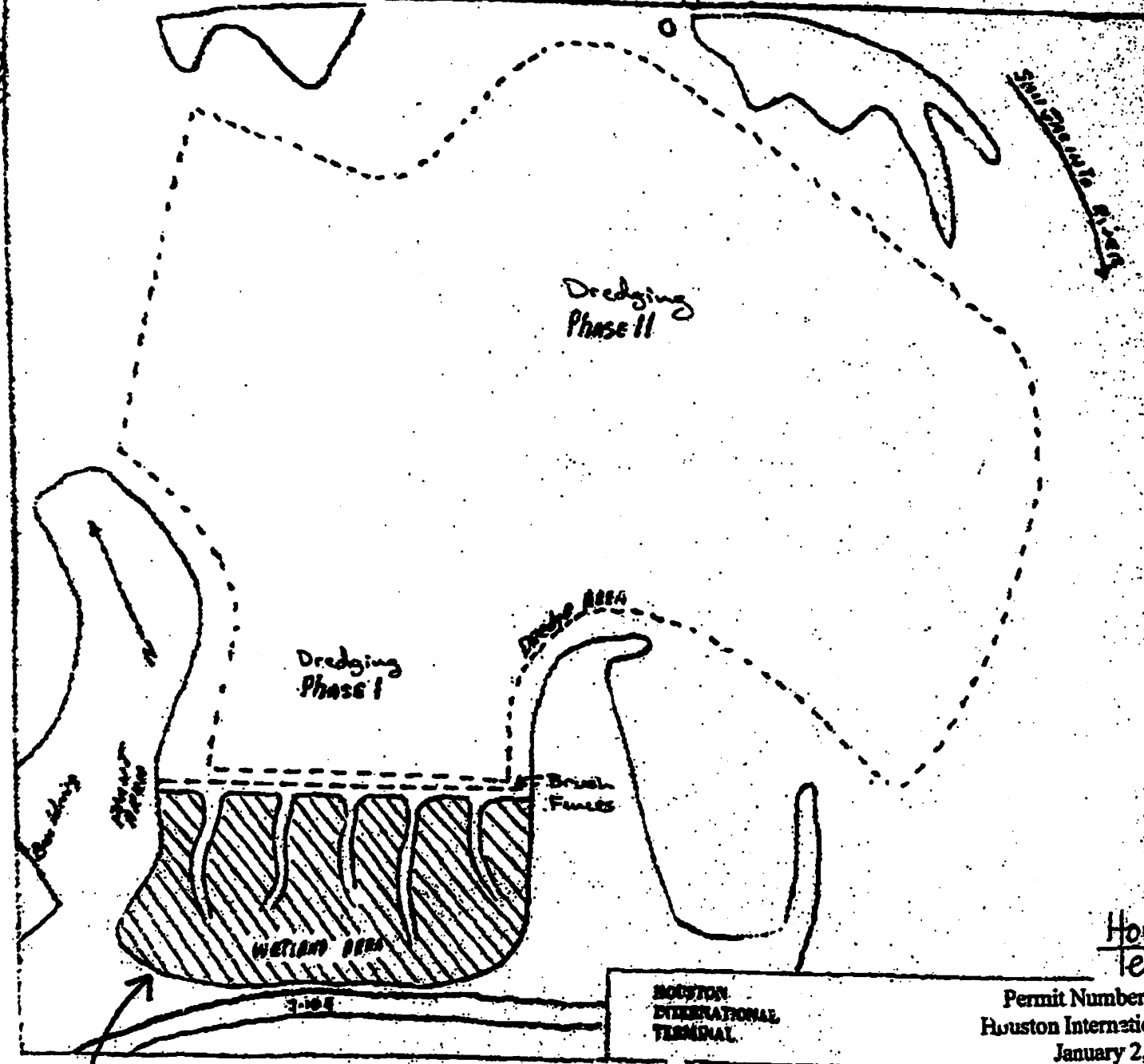
Cross-section A --- A of proposed mitigation

PERMITTED PLANS

Permit Number 19284(03)
Houston International Terminal
January 2, 2003
Page 2 of 5

206-2007-1865

REVISED Mitigation Plan



proposed mitigation
area (9.0 acres)

Plan View

Houston International
Terminal

Permit Number 19284(03)
Houston International Terminal
January 2, 2003
Page 3 of 5

SWG-2007-1865

PERMITTED PLANS

SWG-2007-1865

Mitigation Plan

Brush Fences

~150'

~200'

~150'

~300'

~400'

WETLAND AREA

PERMITTED PLANS

~1000'

Mitigation
Phase III

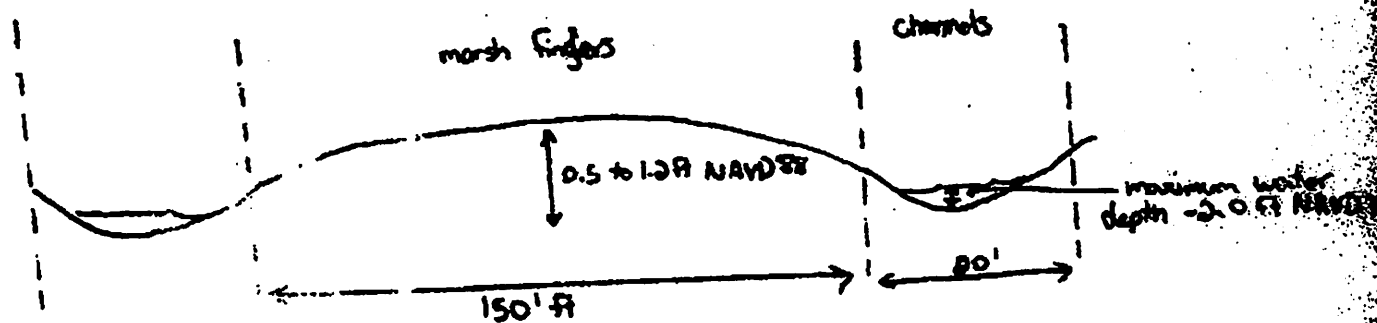
Mitigation
Phase II

Mitigation
Phase I

75%

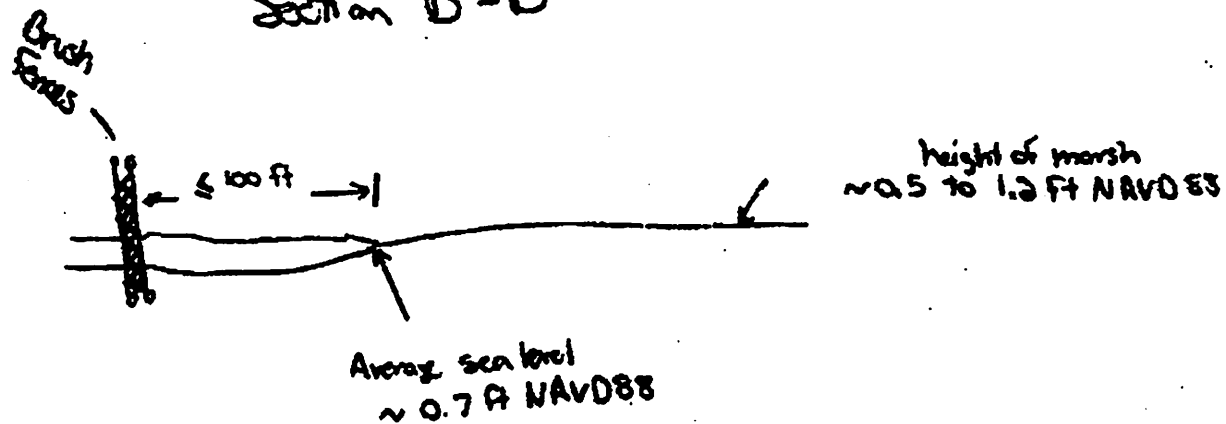
Section views

Section A-A



N.T.S

Section B-B



PERMITTED PLANS

Permit Number 19284(03)
Houston International Terminal
January 2, 2003
Page 5 of 5

SWG-2007-1865

**Houston International Terminal
Permit Number 19284 (03)**

Mitigation Plan

Purpose

This mitigation plan is designed to develop a 9.0-acre wetland, in three Phases, that is protected from the normal flow of the San Jacinto River and the erosion caused by tidal movements and boat traffic. The wetland areas will be protected on three sides by landmasses and on the river side by brush fences. The brush fences will allow normal tidal flow to take place to nurture the wetlands and will also provide a method of controlling the activities of herbivorous species, which could destroy developing wetland vegetation. The wetland area will be accessible from land, thereby making it easier to maintain.

Participants

The participants in the mitigation project will be:

Houston International Terminal (HIT)-owner of the site and holder of the permit

Dredging Contractor (DC)- the dredging contractor for HIT

Houston International Terminal owns the property and will enter into a contract with the DC to dredge the commercial sand from the property and to deposit the unwanted material into the designated wetland area to be developed as a wetland. Houston International Terminal will be solely responsible for the grading of material to suitable wetland elevations and the planting of target species. Additionally, all wetland vegetation and associated planting cost will be assumed by HIT.

Site

The property is located on the southwest side of the San Jacinto River, just north of Interstate Highway 10 (I-10) and contains approximately 200 acres, mostly under water. The proposed wetland area is shown on the attached drawing and is approximately 9.0 acres (1000 feet by 400 feet) in size. The wetland site is accessible from land and State right of way along I-10.

Currently, the wetland area has been fill above marsh creation elevations and needs to be graded to create the 9.0-acre wetland.

Wetland Development and Timelines

The entire project when constructed will total 9.0 acres. The mitigation will be separated into three phases. Phase I will include the eastern most 300-foot-long by 400-foot-wide section. Phase II will include the central 300-foot-long by 400-foot-wide section. Phase III will include the western most 400-foot-long by 400-foot-wide section.

The construction of each phase will include the grading of material to a suitable elevation for the target vegetation, the excavation of the intertidal channels, the planting of the target vegetation, and initial survival monitoring of the target vegetation.

Upon six months from the start of construction within jurisdictional areas, the applicant must begin construction on Phase I of the mitigation. Upon 12 months from the start of construction within jurisdictional areas, the applicant must begin construction on Phase II of the mitigation. Upon 18 months from the start of construction within jurisdictional areas, the applicant must begin construction on Phase III of the mitigation. All Phases of the mitigation (I, II, and III) must be completed with construction and planted within 24 months from the start of construction within jurisdictional areas.

Upon the occurrence that the applicant cannot find a dredging contractor who begins work in jurisdictional areas within 18 months, from the date of the re-authorization, the permittee must begin the mitigation time line (as described above) and proceed with the construction of the mitigation site. The day, 18 months from the date of the re-authorization, will be the "start of construction within jurisdictional areas" date for the purpose of the starting the mitigation timeline. If the permittee fails to begin final construction of the mitigation area within 18 months, the permittee will be in violation of the permit and the permit may be suspended and may be turned over to the Compliance Section to be resolved.

Planting and Maintenance

Overall, the 9.0-acre mitigation site will be comprised of 150-foot-wide by 300-foot-long fingers planted with vegetation and the remaining 100-foot-long by 1000-foot-wide section. The elevation of the wetland areas will be between +0.5 and +1.2 feet NAVD 88. The fingers will be separated by 20-foot-wide by 300-foot-long intertidal channels that will be excavated. The channels will have a maximum bottom depth of -2.0 NAVD 88 that then slope up to the +0.5 feet NAVD 88 marsh elevation. The target species will be California bulrush (*Scirpus californicus*), salt marsh bulrush (*Scirpus robustus*), narrow-leaved cattail (*Typha angustifolia*), and bull-tongue (*Sagittaria lancifolia*).

The four species will be planted and planting should be done on 6-foot centers as single species clumps each measuring 30 feet by 30 feet. Three-foot centers will be planted along the shorelines. After planting, the area will be monitored annually and a report containing information on the current status of the mitigation project, percent survival of the planted wetland vegetation, percent aerial coverage of the wetland vegetation, and any problems encountered will be submitted to the Corps' Compliance Section for review. The report will contain factual information, as well as photographic illustrations of the mitigation area. As the mitigation phases are constructed, solutions may include, but are not limited to, adjustment of the elevations within the mitigation area, additional control of herbivorous species, additional erosion control, etc... Annual reports will continue to be submitted for five years after planting Phase III of the mitigation area.

The mitigation area will be enclosed with plastic construction fencing nailed into wooden posts. If a brush fence is required to reduce wave erosion, the brush will be placed between two closely spaced rows of construction fencing. The fencing will also be installed in the uplands to reduce terrestrial herbivores. The fence will be removed when the minimum success criteria is met.

Success Criteria and Monitoring Reports

1. A transplant survival survey of the planted mitigation area must be performed within 60 calendar days following the initial planting effort for each phase. If at least 50% survival of transplants is not achieved within 60 calendar days of planting, a second planting effort will be completed within 60 calendar days of completing the initial survival survey. If optimal seasonal requirements for re-planting targeted species is not suitable when replanting would be required, the Corps Galveston District (Corps) must approve a re-planting schedule.
2. Written reports detailing plant survival must be submitted to the Corps within 30 calendar days of completing the initial survival survey and any subsequent replanting effort.
3. If after one year from the initial planting effort (or subsequent planting efforts) the site does not have at least 35% aerial coverage of targeted vegetation, those areas that are not vegetated will be replanted using the original planting specifications. If after two years from the initial planting effort (or subsequent planting efforts) the site does not have at least 50% aerial coverage of targeted vegetation, those areas that are not vegetated will be replanted using the original planting specifications.
4. If after five years from the initial planting effort (or subsequent planting efforts) the site does not have at least 70% aerial coverage of targeted vegetation, the applicant must submit a supplemental mitigation plan to the Corps' Compliance Section for approval to achieve 70% aerial coverage of target vegetation.

5. In addition to the initial survey report, progress reports will be submitted to the Corps Galveston District at 6 months, 1 year, 2 year, 3-year, 4-year, and 5-year intervals following the initial transplanting effort or subsequent replanting efforts. Photos of the mitigation site should be included.

6. At no time will invasive, non-native species be allowed. If invasive, non-native species exceed 5% aerial coverage within the mitigation site, the applicant will take measures to control and eradicate the species.



**DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229**

MAY 1 8 2009

REPLY TO
ATTENTION OF:

Policy Analysis Section

SUBJECT: Permit: SWG-2007-01865, Captain Jack Roberts; Suspension

dead? { **Captain Jack Roberts
2435 Broadway Street
Pearland, Texas 77581-6407**

Dear Capt. Roberts:

This is to notify you that Department of the Army (DA) permit SWG-2007-01865 has been suspended. DA permit SWG-2007-01865 was authorized December 27, 2007, to amend DA permit 19284(03) for an extension of time and to modify the mitigation plan to incorporate specific plans and construction criteria to increase success. The project is located in the San Jacinto River, along the south bank, north of the Interstate Highway 10 Bridge, in Channelview, Harris County, Texas.

The original DA permit 19284 was issued on May 11, 1992 and authorized the dredging of sand for commercial sale and to create a barge berthing area, and required the creation of 15.2 acres of wetlands as mitigation for the project impacts. Amendment (01) extended the time for completion of that work until December 31, 1999. Amendment (02) reduced the required mitigation to 9.0 acres of created wetlands and modified the location of the mitigation site. Amendment (03) also modified the mitigation plan.

In a letter dated March 31, 2009 (attached), Texas Commission on Environmental Quality (TCEQ) informed us they have suspended 401 Water Quality Certification for DA permit SWG-2007-01865 due to the purported water quality issues involving the contaminant dioxin.

Pursuant to 33 CFR 325.7, I may reevaluate the circumstances and conditions of a permit, at the request of a third party and initiate action to suspend or revoke a permit as may be made necessary by considerations of the public interest. Among the factors I must consider in a determination to suspend, is whether any significant objections to the authorized activity which were not earlier considered have occurred. The suspension of TCEQ 401 Water Quality Certification not only constitutes a significant objection, but ultimately renders SWG-2007-01865 void as a required condition of the permit. As required by 33 CFR 325.7(c), I am ordering you to stop those activities previously authorized by the permit to allow TCEQ the time necessary to assess any water quality issues. Following this suspension, a decision will be made to reinstate, modify, or revoke the permit.

Within 10 days of receipt of this notice of the suspension, you may request a meeting with me, and/or a public hearing to present information in this matter. If a hearing is requested, the procedures prescribed in 33 CFR Part 327 will be followed. After the completion of the meeting or hearing, or within a reasonable period of time if no hearing or meeting is requested, I will take action to reinstate, modify, or revoke the permit.

If you have any questions regarding this matter, please contact Mr. Sam Watson at the letterhead address or by telephone at 409-766-3946.

Sincerely,

David C. Weston
Colonel, Corps of Engineers
District Commander

(Copy Furnished – See Page 3 and 4)

Copies Furnished:

Miguel I. Flores
Director, Water Quality Protection Division
Environmental Protection Agency (6WQ)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

Mark R. Vickery
Executive Director
MC109
P.O. Box 13087
Austin, Texas 78711-3087

Stephen Tzhone
Remedial Project Manager (RPM)
EPA - Region 6 [6SF-RA]
1445 Ross Avenue
Dallas, Texas 75202

Bob Werner
EPA Enforcement Project Manager
EPA - Region 6 [6SF-TE]
1445 Ross Avenue
Dallas, Texas 75202

Barbara Nann
EPA Office of Counsel
EPA - Region 6 [6RC-S]
1445 Ross Avenue
Dallas, Texas 75202

Jim Herrington
EPA, Region 6
Blackland Research Center
720 East Blackland Road
Temple, Texas 76502

Mark Fisher
Texas Commission on Environmental Quality
Water Quality Standards Team
P.O. Box 13087, MC-150
Austin, Texas 78711-3087

Marshall Cedilote
Remediation Project Manager
Texas Commission on Environmental Quality
P.O. Box 13087, MC-136
Austin, Texas 78711-3087

Larry Koenig
TMDL Study Project Manager
Texas Commission on Environmental Quality
P.O. Box 13087, MC-203
Austin, Texas 78711-3087

Carter Smith
Texas Parks & Wildlife Department
4200 Smith School Road
Austin, Texas 78744-3291

Pat Radloff
Texas Parks & Wildlife Department
4200 Smith School Road
Austin, Texas 78744-3291

William (Jamie) Schubert
Texas Parks & Wildlife Department
Coastal Conservation Branch
Resource Protection Division
1502 Pine Drive (FM 517)
Dickinson, Texas 77539